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इस भाग में मिल चुके लेखों की जाती है जिससे कि यह लेखन संकलन के रूप में  
रखा जा सके

Separate paging is given to this Part in order that it may be filed as a  
separate compilation

## भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांख्यिक आदेश और अधिसूचनाएँ  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

कार्मिक लोक शिकायत तथा पेंशन मंत्रालय  
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 14 अक्टूबर, 1999

का.आ. 3091.—केन्द्रीय सरकार एम.डी.आर. दिल्ली  
विशेष पुलिस स्थापना अधिनियम, 1946 (1946  
का अधिनियम सं. 25) की धारा 6 के साथ  
पठित धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का  
प्रयोग करते हुए मध्य प्रदेश राज्य सरकार के सह (पुलिस)  
विभाग भोपाल की अधिसूचना सं. 4102/1163/वी.आई.पी./99/  
दिनांक 9/12-7-99 द्वारा प्राप्त मध्य प्रदेश राज्य सरकार  
की सहमति से श्री जयदीप दास तथा अन्य के विरुद्ध  
भारतीय दंड संहिता 1860 की धारा 409, 420, 467,  
468 और 471 के अधीन बालको, खाना कीरबा (मध्य प्रदेश  
में दिनांक 17-04-1999 को वर्ज अपराध मामला सं. 83/99  
से उद्भूत अपराधों तथा तत्संबंधी व्यक्तियों के विरुद्ध  
उसी संव्यवहार के अनुक्रम में किए गए अभियां उन्हीं तथ्यों से

उद्भूत उक्त अपराधों से संबंधित शिकायत संकलन किन्हीं अन्य  
अपराध (अपराधों) प्रत्यक्ष दुष्प्रमाणों और चरित्र का अनुसंधान  
करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की  
शक्तियों और अधिकारिता का विस्तार सम्पूर्ण मध्य प्रदेश  
राज्य पर करती है।

[सं. 228/75/99-ए.जी.जी. II]  
हरि सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES  
AND PENSION

(Department of Personnel & Training)

New Delhi, the 14th October, 1999

S.O. 3091.—In exercise of the powers conferred by sub-  
section (1) of section 3 read with section 6 of the Delhi  
Special Police Establishment Act, 1946 (Act No. 25 of  
1946), the Central Government with the consent of the State  
Government of Madhya Pradesh Home (Police) Department  
Bhopal, Notification No. 4102/1163/VIP/99 dated 9/12-7-99  
hereby extends the powers and jurisdiction of members of  
Delhi Special Police Establishment to the whole of the  
State of Madhya Pradesh for investigation of offence arising  
out of the Case Crime No. 83/99 dated 17-4-1999 registered

at BALCO, Police Station, Korba (Madhya Pradesh) against Shri Jaideep Das and others under sections 409, 420, 467, 468 and 471 of Indian Penal Code, 1860 and any other offence(s), attempts, abetments and conspiracy in relation to or in connection with the said offences committed during the course of the transaction or arising out of the same facts against the persons connected therewith.

[No. 228/75/99-AVD. II]

HARI SINGH, Under Secy.

नई दिल्ली, 15 अक्टूबर, 1999

का. प्रा. 3092.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम 1946 (1946 का अधिनियम सं. 25) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए जम्मू और कश्मीर राज्य एवं अन्य के विरुद्ध सुरजीत सिंह द्वारा दायर रिट याचिका सं. ओडिबूपी (244/97) में जम्मू और कश्मीर उच्च न्यायालय के दिनांक 30-12-1998 के आदेश द्वारा जारी निवेशों के अनुसार पुलिस स्टेशन बाहु फोर्ट, जम्मू में रणबीर दंड संहिता की धारा 382/342 तथा अष्टाचार निवारण अधिनियम 2006, संवत् की धारा 5 (2) के अधीन दर्ज मामला एफ. आई. आर. नं. 5/97 और पुलिस स्टेशन बक्षी नगर, जम्मू में 10-01-1997 को श्री संदीप पाल सिंह, उप-निरीक्षक की मृत्यु सहित उनसे आनुवंशिक विषयों तथा उक्त अपराधों से संबंधित अथवा संसक्त किन्हीं प्रयत्नों, दृष्टरेणों षड्यंत्रों और उसी संयोजन के अन्तर्गत में किए गए किन्हीं अन्य अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण जम्मू और कश्मीर राज्य पर करती है।

[सं. 228/49/98-ए. वी. डी. II]

हरि सिंह, अवर सचिव

New Delhi, the 15th October, 1999

S.O. 3092.—In exercise of the powers conferred by sub-section (1) of section 5 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government, on the directions of the High Court of Jammu and Kashmir, vide order dated 30-12-1998 in Writ Petition No. OWP (244/97) filed by Surjit Singh, V/s State of J & K, and other hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Jammu & Kashmir for investigation of FIR No. 5/97 Police Station, Bahu Fort, Jammu under section 382/342 of Ranbir penal Code and under section 5(2) of Prevention of Corruption Act, 2006 Samvat and the matters instantly thereto, including the death of Sandeep Pal Singh, Sub-Inspector on 10-1-1997 in Police Station Bakshi Nagar, Jammu, and any attempts, abetments and conspiracies in relation to or in connection with the said offences and any other offences committed in the course of same transaction.

[No. 228/49/98-AVD. III]

HARI SINGH, Under Secy.

नई दिल्ली, 18 अक्टूबर, 1999

का. प्रा. 3093.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और जम्मू व कश्मीर राज्य सरकार के सिविल सचिवालय, गृह

विभाग की दिनांक 10-12-1998 की अधिसूचना संख्या 85/97-आई. एस. ए. द्वारा प्राप्त सहमति से, अस्त्र अधिनियम, 1959 की धारा 3, 7 और 25 के अधीन पुलिस स्टेशन हंदारा (जम्मू व कश्मीर) में दर्ज प्रथम सूचना रिपोर्ट 18/97 से उद्भूत अपराधों तथा अपराधों के संबंधित प्रयत्नों, दृष्टरेणों और षड्यंत्रों और उसी संयोजन के अन्तर्गत में किए गए या किन्हीं तथ्यों से उद्भूत किसी अन्य अपराध अथवा अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार एतद्वारा सम्पूर्ण जम्मू व कश्मीर राज्य के संबंध में करती है।

[संख्या 228/49/98-ए. वी. डी. -II]

हरि सिंह, अवर सचिव

New Delhi, the 18th October, 1999

S.O. 3093.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government, with the consent of the State Government of Jammu & Kashmir vide Civil Secretariat Home Department Notification No. 85/97-ISA dated 10-12-1998, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Jammu & Kashmir for investigation of offences arising out of FIR No. 18/97 registered at Police Station, Handawara (J & K) under Sections 3, 7 and 25 of the Arms Act, 1959 and any other offence(s), attempts, abetments and conspiracy in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of same transaction of or arising out of the same facts.

[No. 228/49/98-AVD. III]  
HARI SINGH Under Secy.

नई दिल्ली, 18 अक्टूबर, 1999

का. प्रा. 3094.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा उड़ीसा राज्य सरकार के गृह विभाग की दिनांक 23-07-99 की अधिसूचना सं. सी. पी. (लिट.)-106/97/41592 द्वारा प्राप्त सहमति से पुलिस चौकी कैन्टोनमेंट, कटक (उड़ीसा) में दर्ज प्रथम सूचना रिपोर्ट, सं. 67/1997 में राज्य न्यायिक विभाग प्रयोगशाला के रिकार्डों/रिपोर्टों में कथित छल-रुपट के संबंध में भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 477-क, 201, 214, 218 के साथ पठित धारा 120-ख के तहत किए गए अपराधों के अन्वेषण और ऊपर वर्णित अपराधों के संबंध में अथवा उनसे संसक्त प्रयत्नों, दृष्टरेणों और आपराधिक षड्यन्त्रों अथवा बड़े ही संयोजन के अन्तर्गत में किया गया या किए गए अथवा उसी तथ्य या तथ्यों से उद्भूत किसी अपराध या अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार एतद्वारा सम्पूर्ण उड़ीसा राज्य के संबंध में करती है।

[सं. 228/71/99-ए. वी. डी. -II(ii)]

हरि सिंह, अवर सचिव

New Delhi, the 18th October, 1999

आदेश

नई दिल्ली, 20 अक्टूबर, 1999

S.O. 3094.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the Government of Orissa, vide Home Department Notification No. CP(LT)-105/97/41592 dated 23-7-99, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment in the whole State of Orissa for the investigation of offences u/s 120 B r/w Section 477-A, 201, 214, 218 of Indian Penal Code 1860 (Act No. 45 of 1860) relating to the allegations of manipulation of the records/reports of the State Forensic Science Laboratory, Orissa arising out of FIR 67 of 1997 of PS Cantonment, Cuttack (Orissa) and for any other offences, attempts, abetment and criminal conspiracies in relation to or in connection with the aforesaid offences or any other offence or offences committed in the course of the same transaction or arising out of the same fact or facts.

[No. 228/71/99-AVD. II(G)]  
HARI SINGH, Under Secy.

नई दिल्ली, 18 अक्टूबर, 1999

का. आ. 3095.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए दिल्ली विशेष पुलिस स्थापना द्वारा निम्नलिखित अपराधों की जांच किए जाने के लिए विनिर्दिष्ट करती है, अर्थात् :—

(क) भारतीय दंड संहिता, 1860 (1860 का अधिनियम संख्या 45) की धारा सं. 214 के अंतर्गत दण्डनीय अपराध।

(ख) उपर्युक्त वर्णित अपराधों से संबंधित या संसक्त प्रयत्न, दुष्प्रेरण और पड़ोस्त्र और उसी संव्यवहार के अनुक्रम में किए गए या उन्हीं तथ्यों से उद्भूत अन्य अपराध अथवा अपराधों।

[सं. 228/71/99-ए. बी. डी.-II(i)]

हरि सिंह, अवर सचिव

New Delhi, the 18th October, 1999

S.O. 3095.—In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offences as the offences which are to be investigated by Delhi Special Police Establishment namely :—

- Offences punishable under section 214 of the Indian Penal Code 1860 (Act No. 45 of 1860);
- Attempts, abetments and conspiracy in relation to or in connection with the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/71/99-AVD. II(G)]  
HARI SINGH, Under Secy.

का. आ. 3096.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, हरियाणा राज्य सरकार की सहमति से गृह विभाग आदेश सं. 18/125/91-2 एच. बी.-1, तारीख 20-7-1993 द्वारा दी गई थी, श्री एस. ए. खान, भा. पु. मे. (हरियाणा 1970) के विरुद्ध अपराध सं. आर. सी. 1 (ए.) 192-ए सी. यू.-1/11 के बारे में, अष्टाचार निवारण अधिनियम, 1947 की धारा 5(1) (ड) के साथ पठित धारा 5(2) और अष्टाचार निवारण अधिनियम, 1988 की धारा 18(1) (ड) के साथ पठित धारा 18(2) के अधीन दण्डनीय अपराधों के अन्वेषण के लिए तथा उन्हीं तथ्यों से उद्भूत होने वाले वैसे ही संव्यवहार के अनुक्रम में किए गए किसी अन्य अपराध अथवा अपराधों के संबंध में या उनसे संसक्त प्रयत्नों, दुष्प्रेरणों और पड़ोस्त्रों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण हरियाणा राज्य पर करती है।

[संख्या 228/12/93-ए. बी. डी.-II]]

हरि सिंह, अवर सचिव

## ORDER

New Delhi, the 20th October, 1999

S.O. 3096.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Haryana vide Home Department Order No. 18/125/91-2 HG-1 dated 20-7-1993 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Haryana for investigation of the offences punishable under Section 5(2) read with 5(1)(c) of Prevention of Corruption Act, 1947 and 13(2) read with Section 13(1)(e) of the Prevention of Corruption Act, 1988 in regard to Crime No. RC. 1(A)/92-ACU. VII against Sh. S. A. Khan, IPS (Haryana 1970) and attempts, abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/12/93-AVD. III]  
HARI SINGH Under Secy.

अदेश

के सदस्यों की शक्तियों और अधिकारिता का विस्तारण  
पूर्ण पश्चिम बंगाल राज्य पर करती है।

नई दिल्ली, 20 अक्टूबर, 1999

[सं. 228/68/99-ए. बी. बी.-II]

हरि सिंह, अवर सचिव

ORDER

New Delhi, the 20th October, 1999

का. आ. 3097.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए पश्चिम बंगाल सरकार की अधिसूचना सं. 7151-पी दिनांक 10 अक्टूबर, 1999 द्वारा प्राप्त पश्चिम बंगाल सरकार की सहसक्ति से उत्तर-पूर्व सीमांत रेलवे के गार्डियल रेलवे स्टेशन पर 2-8-1999 को 4055 डाकन ब्रह्मपुत्र मेल और 5610 अप अवध-असम एक्सप्रेस के बीच ठक्कर के परिणामस्वरूप हुई दुर्घटना के संबंध में राजकीय रेलवे पुलिस स्टेशन, दालखोला, जिला उत्तर दिनाजपुर में पंजीकृत प्रथम सूचना रिपोर्ट सं. 2/99 दिनांक 2-8-1999 के संबंध में भारतीय दंड संहिता की धारा 279, 337, 338, 304-ए, 427 संपठित रेल अधिनियम, 1989 की धारा 154 और 175 के अन्तर्गत दंडनीय अपराधों और उक्त अपराधों से संबंधित सख्त संभव प्रयत्न (नों), वृत्ते और सख्त तथा उसी संस्थाओं के अनुक्रम में किया गया प्रयास उन्हीं तथ्यों से उद्भूत किसी अन्य अपराध (धों) के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना

S.O. 3097.—In exercise of the powers conferred under sub section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 23 of 1946), the Central Government with the consent of the Government of West Bengal, vide Notification No. 7151-P dated 10th October, 1999, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of West Bengal for the investigation of the case relating to FIR No. 2/99 dated 2-8-99 registered at Government Railway Police Station, Dalkhola, Distt. Uttar Dinajpur, under sections 279, 337, 338, 304A, 427-IPC read with sections 154 & 175 of the Railways Act, 1989 in connection with the accident which took place as a result of the collision between 4055 DN Bharampura Mail and 5610 UP Avadh-Assam Express at Gaisal Railway Station of the North-East Frontier Railway on 2-8-1999 and any other offence(s), attempt(s), abetment and conspiracy in connection with the said offences committed in the course of the same investigation or arising out of the same fact or facts in relation to the aforesaid case.

[No. 228/68/99-AVD II]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

मुख्य आयकर आयुक्त का कार्यालय

मुंबई पत्र

कलकत्ता, 2 सितम्बर, 1999

संख्या 5/99-2000

का. आ. 3098.—आयकर अधिनियम, 1961 की धारा 120 की उपधारा (1) द्वारा प्रदत्त सभी शक्तियों तथा इस विभाग में सक्षम बनाने वाली प्रदत्त अन्य सभी शक्तियों का प्रयोग करते हुए तथा अधिसूचना संख्या 3/99-2000 दिनांक 23-08-99 का आंशिक संशोधन करते हुए, मैं, मुख्य आयकर आयुक्त, कलकत्ता एतद्वारा निवेदन देता हूँ कि आयकर अधिनियम पश्चिम बंगाल-7 कलकत्ता के प्रभारक्षीत आयकर सहायक आयुक्त (टीडीएस) संख्या 21 (1), कलकत्ता अध्याय 17-बी, 17-बीबी, 17-बीसी, अध्याय 21 तथा अध्याय 22 से संबंधित एतदधीन अनुसूची के स्तंभ 3 में विनिर्दिष्ट ऐसे व्यक्ति या व्यक्तियों के वर्गों के बारे में निर्धारण अधिकारी के शक्तियों का प्रयोग करेंगे तथा सभी कार्यों का निष्पादन करेंगे।

अनुसूची

क्रम सं. स्तंभ/पंक्ति

अधिकारी

01. स. आ. आ. (टीडीएस)

संख्या 21 (1), कल.

आयकर अधिनियम 1961 के अध्याय 17-बी 195

को छोड़कर, अध्याय 17-बीबी, अध्याय 17-बीसी, अध्याय 21 तथा अध्याय 22 में की गई सभी धारा से संबंधित आयकर के बारे में निर्धारितियों को उक्त अधिनियम की धारा 201 के तहत डिफाल्ट समझे जाने वाले पश्चिम बंगाल प्रभार के बाहर निर्धारित प्रयास निर्धारण योग्य सभी सार्वजनिक क्षेत्र एवं हवाई कंपनी मामलों, बैंकों, विदेशी बैंकों तथा म्यूचुअल फण्डों द्वारा स्थापित बैंकों जिन हे



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		मु. आ. आ. या आ. स. आ. (टीडीएस) मर्कल 21 (3) कलकत्ता द्वारा "टेन" आर्बिट्रल किया गया है अथवा किया जा सकता है और ऐसे सभी व्यक्तियों के बारे में जो सं. आ. आ. वि. रे—16 कल., सं. आ. आ. वि. रे—17, कल., सं. आ. आ. वि. रे—21, कल. सं. आ. आ. वि. रे—22, कल., सं. आ. आ. वि. रे—23, कलकत्ता तथा सं. आ. आ. वि. रे—24, कल. के क्षेत्राधिकाराधीन में है या होंगे।

2. उपरोक्त सभी कार्यों का निष्पादन करने हेतु आयकर अधिनियम, 1961 की निम्नलिखित धारा आयकर नियम 1962 के संबंध विषय के साथ पठित के तहत उन्हें एक निर्धारण अधिकारी की सभी शक्तियां होंगी।

- (क) आयकर अधिनियम, 1961 की धारा 131 के अधीन अनुसंधान, साक्ष्य प्रस्तुतीकरण, आदि के बारे में शक्ति।  
 (ख) आयकर अधिनियम, 1961 की धारा 133 के अधीन सूचना मांगने संबंधित शक्ति।  
 (ग) आयकर अधिनियम, 1961 की धारा 133ए के अधीन सर्वेक्षण की शक्ति।  
 (घ) आयकर अधिनियम, 1961 की धारा 133 बी के अधीन निश्चित सूचना इकट्ठा करने की शक्ति।  
 (च) आयकर अधिनियम, 1961 की धारा 134 के अधीन कंपनियों के रजिस्टर का निरीक्षण करने की शक्ति।  
 यह अधिसूचना 23-08-99 से प्रसूची होगी।

[सं. स. आ./मुद्रा/योजना/345/99-2000]  
टी. के. दास, मुख्य आयकर आयुक्त

MINISTRY OF FINANCE  
(Department of Revenue)  
OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX  
CORRIGENDUM

Calcutta, the 2nd September, 1999

No. 5/99-2000

S.O. 3098.—In exercise of the powers conferred by sub-section (1) of the Section 120 of the Income-tax Act, 1961 and all other powers enabling me in this behalf and in part of modification of Notification No. 3/99-2000 dtd. 23-08-1999, I the chief Commissioner of Income-tax, Calcutta hereby direct that the Assistant Commissioner of Income-tax (TDS), Circle-21(1) Calcutta within the charge of CIT, WB-VII, Calcutta hereunder shall exercise the powers and perform the functions of an Assessing Officer so far as they relates to Chapter XVII-B, XVII BB, XVII-D, Chapter-XXI and Chapter-XXII in respect of such person of class of persons specified in column 3 of the schedule below:—

SCHEDULE

Sl. No.	Circle/Ward	Jurisdiction
1. ACTT(TDS) Circle-21(1), Calcutta		All matters relating to all Section contained in Chapter XVII-B except 195, Chapter-XVII BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesseees deemed to be in default in respect of tax U/s 201 of the said Act in respect of all Public Sector and Airlines cases, Bank, Foreign Banks, Private Banks and Banks established by Mutual Funds which has assessed or assessable out side the charger of West Bengal, but have been or may be allotted TAN by the Office of the CCIT or ACIT(TDS) Circle-21(3) Calcutta and also in respect of persons who are or would come under the Jurisdiction J.C.I.T., Spl. Range-16, Cal., J.C.I.T., Spl. Range-17, Cal., J.C.I.T., Spl. Range-21, Cal., J.C.I.T., Spl. Range-22, Cal., J.C.I.T., Spl. Range-23, Cal., & J.C.I.T., Spl. Rang -24, Cal.

2. In the performance of the above functions he shall also have the powers of an Assessing Officer under the following Section of the Income-tax Act, 1961 read with relevant Rules of the Income-tax Rules, 1962.

- Power regarding discovery, Production of evidence etc. under Section 131 of the Income-tax Act, 1961.
- Power to call for information under Section 133 of the Income-tax Act, 1961.
- Power of Survey under Section 133A of the Income-tax Act, 1961.
- Power to collect certain information U/s 133B of the Income-tax Act, 1961.
- Power to inspect the Register of Companies U/s 134 of the Income-tax Act, 1961.

This Notification shall take effect from 23-08-1999.

[No. AC/HQ/Planning/345/99-2000]

T.K. DAS, Chief Commissioner of Income-Tax

कलकत्ता, 15 सितम्बर, 1999

का. आ. 3099:—आयकर आयुक्त प्रभार, संख्या 6/99—2000 पश्चिम बंगाल—7, कलकत्ता के संयुक्त आयुक्त आयुक्त रेंज-21, कलकत्ता के अधीन सं. आ. आ. (टीडीएस) सर्किल-21(4), कलकत्ता का एक नया प्रभार एतद्वारा इस आदेश के प्रभावी होने की तारीख से सृजित किया जाता है।

आयकर अधिनियम, 1961 की धारा 120 की उपधारा (1) के अन्तर्गत प्रदत्त अधिकारों एवं इस संबंध में मुझे सक्षम बनाने वाले सभी अन्य अधिकारों का प्रयोग करते हुए एवं दिनांक 23-08-1999 की अधिसूचना सं. 3/99-2000 व 02-09-1999 के शुद्धि पत्र सं. 5/99-2000 से आंशिक संशोधन करते हुए, मैं मुख्य आयुक्त आयुक्त एतद्वारा निदेश देता हूँ कि आयुक्त पश्चिम बंगाल—7, कलकत्ता प्रभार के अन्तर्गत संयुक्त आयुक्त आयुक्त रेंज-21, कलकत्ता की अनुसूची के कॉलम 2 में विनिर्दिष्ट सहायक आयुक्त आयुक्त (टीडीएस) एवं आयुक्त अधिकारीगण (टीडीएस) एतद्धीन संलग्न अनुसूची के कॉलम 3 में विनिर्दिष्ट ऐसे व्यक्ति या व्यक्तियों के वर्ग संबंध में अध्याय-17 बी, 17 बीबी अध्याय-17डी, अध्याय-21 एवं 22 से संबंधित अधिकारों का प्रयोग करेंगे एवं निर्धारण अधिकारी के रूप में कार्य सम्पन्न करेंगे।

#### अनुसूची

क्रम सं.	सर्किल/वार्ड	क्षेत्राधिकार
1	2	3
1.	सं. आ. आ. (टीडीएस) सर्किल-21 (1) कलकत्ता	पश्चिम बंगाल प्रभार के बाहर निर्धारित किये गये या निर्धारित किये जाने वाले समस्या तार्वजिक सेक्टर एवं हवाई कम्पनियों के मामले, बैंक, विदेशी बैंकों, निजी बैंकों, निजी कोषों द्वारा स्थापित बैंकों, जिनको म. आ. आ. या सं. आ. आ. (टीडीएस) सर्किल-21 (3) कलकत्ता के कार्यालय द्वारा टैन आवंटित किया गया है या किया जा सकता है, के संबंध में आयुक्त अधिनियम, 1961 के धारा 195, अध्याय-17बी, अध्याय-17 बीबी, अध्याय-17डी, अध्याय-21 एवं अध्याय-22 में दी गई सभी धाराओं से संबंधित ऐसे सभी मामले जिनमें आयुक्त के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत चूक समझी जाती है एवं ऐसे सभी व्यक्तियों के संबंध में जो सं. आ. आ. विशेष. रेंज-16, कलकत्ता सं. आ. आ. विशेष. रेंज-17, कलकत्ता, सं. आ. आ. वि. रेंज-21, कलकत्ता, सं. आ. आ. विशेष. रेंज-22, कलकत्ता, सं. आ. आ. विशेष. रेंज-23, कलकत्ता एवं सं. आ. आ. विशेष. रेंज-24, कलकत्ता के क्षेत्राधिकार में हैं या आ सकता है।

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2.	सं. आ. आ. (टीडीएस) सर्किल—21 (2), कलकत्ता।	ऐसे सभी व्यक्तियों जो सं. आ. आ. विशेष. रेंज—1, कलकत्ता, सं. आ. आ. विशेष. रेंज—2, कलकत्ता, सं. आ. आ. विशेष., रेंज—3, कलकत्ता, सं. आ. आ. विशेष. रेंज—4, कलकत्ता, सं. आ. आ. विशेष., रेंज—5 कलकत्ता, सं. आ. आ. विशेष. रेंज—6 कलकत्ता के क्षेत्राधिकार में हैं या आ सकते हैं, के संबंध में आयकर अधिनियम 1961 की धारा 195 के सिवाय अध्याय—17बी, अध्याय—17बीबी, अध्याय—17डी, अध्याय—21 एवं अध्याय—22 में दी गई समस्त धाराओं से संबंधित सभी मामले जिनसे उक्त अधिनियम की धारा 201 के तहत आयकर के संबंध में निर्धारितियों की चूक समझी जाती है।
3.	सं. आ. आ. (टीडीएस) सर्किल—21 (3), कलकत्ता।	ऐसे सभी व्यक्तियों जो सं. आ. आ. विशेष. रेंज—10, कलकत्ता, सं. आ. आ. विशेष. रेंज—11, कलकत्ता, सं. आ. आ. विशेष. रेंज—12 कलकत्ता, सं. आ. आ. विशेष. रेंज—13 कलकत्ता, सं. आ. आ. विशेष. रेंज—14 कलकत्ता, सं. आ. आ. विशेष. रेंज—15 कलकत्ता, सं. आ. आ. विशेष. रेंज—20, कलकत्ता तथा सं. आ. नि. (छूट) वि. रे., कल. के क्षेत्राधिकार में हैं या आ सकते हैं, के संबंध में आयकर अधिनियम, 1961 की धारा 195 के सिवाय अध्याय—17बी, अध्याय—17बीबी, अध्याय—17 डी, अध्याय—21 एवं अध्याय—22 में दी गई सभी धाराओं से संबंधित सभी मामलों जिनमें निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत चूक समझी जाती है।
4.	सं. आ. आ. (टीडीएस) सर्किल—21 (4) कलकत्ता।	ऐसे सभी निर्धारितियों जो सं. आ. आ. विशेष. रेंज—7, कल., सं. आ. आ. विशेष. रेंज—8, कलकत्ता एवं सं. आ. आ., विशेष. रेंज—9, कल. के क्षेत्राधिकार में हैं या आ सकते हैं, के संबंध में आयकर अधिनियम, 1961 की धारा 195 के सिवाय अध्याय—17बी, अध्याय—17बीबी, अध्याय—17डी, अध्याय—21 एवं अध्याय—22 में दी गई सभी धाराओं से संबंधित सभी मामले जिनमें निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत चूक समझी जाती है।
5.	प्रा. अधिकारी (टीडीएस) वार्ड—21 (1), कलकत्ता।	ऐसे सभी निर्धारितियों जो आ. आ. प. बं.—1, कल., (सं. आ. आ. विशेष. रेंज—1, कलकत्ता, सं. आ. आ. विशेष. रेंज—7, कल. सं. आ. आ. विशेष. रेंज—11, कल. एवं सं. आ. आ. विशेष. रेंज—22, कल. के क्षेत्राधिकार में पाने वाले निर्धारितियों के सिवाय (एवं आ. आ. प. बं.—7 कल. के क्षेत्राधिकार में हैं या आ सकते हैं, के संबंध में आयकर अधिनियम, 1961 की धारा 195 के सिवाय अध्याय—17बी, अध्याय—17बीबी, अध्याय—17 डी, अध्याय—21 एवं अध्याय—22 में दी गई सभी

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धाराओं से संबंधित ऐसे सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत चुक समझी जाती है।

6. आयकर अधिकारी (टीडीएस)  
बार्ड—21 (2), कलकत्ता।

ऐसे सभी निर्धारितियों जो आ.आ. प. बं.—II, कल. (सं. आ. आ., विशे. रेंज—2, कल. एवं सं. आ. आ. विशे. रेंज—10, कल., स. आ. आ. विशे. रेंज—12, कल. एवं सं. आ. आ. विशे. रें.—21, कल. एवं अंशमान एवं निकोबार द्वीप समूह के आयकर कार्यालय के क्षेत्राधिकार में आने वाले निर्धारितियों के सिवाय) तथा आ. आ. प. बं.—8, कल., (सं. आ. आ. वि. रें.—8, कलकत्ता के क्षेत्राधिकार में आने वाले निर्धारितियों के सिवाय) के क्षेत्राधिकार में हैं या आ सकते हैं के संबंध में आयकर अधिनियम 1961 की धारा 195 के सिवाय अध्याय 17—बी, अध्याय—17बीबी, अध्याय—17डी अध्याय—21 एवं अध्याय—22 में दी गई सभी धाराओं से संबंधित ऐसे सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत चुक समझी जाती है।

7. आयकर अधिकारी (टीडीएस)  
बार्ड—21 (3), कलकत्ता।

ऐसे सभी निर्धारितियों जो आ.आ. प. बं.—III, कलकत्ता (सं. आ. आ. विशे. रेंज—3, कलकत्ता, सं. आ. —रेंज आ. विशे. रेंज—13, कल., सं. आ. आ. विशे. रेंज—16, कल. एवं सं. आ. आ. विशे. रेंज—23, कल. के क्षेत्राधिकार में आने वाले निर्धारितियों के सिवाय एवं आ. आ. प. बं.—IX, कल.) सं. आ. —आ. वि. रेंज—9, कल. के क्षेत्राधिकार में आने वाले सभी निर्धारितियों के सिवाय) के क्षेत्राधिकार में हैं या आ सकते हैं के संबंध में आयकर अधिनियम, 1961 की सिवाय धारा 195 के अध्याय—17बी, अध्याय—17बीबी, अध्याय—17डी, अध्याय—21 एवं अध्याय—22 में दी गई सभी धाराओं से संबंधित ऐसे सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत चुक समझी जाती है।

8. आयकर अधिकारी (टीडीएस)  
बार्ड—21 (4), कलकत्ता।

ऐसे सभी निर्धारितियों जो आ.आ. प. बं.—4 कल., (सं. आ. आ. विशे. रेंज—4, कल., सं. आ. आ. विशे. रेंज—14, कल., सं. आ. आ. विशे. रेंज—15, कल. एवं सं. आ. आ. विशे. रेंज—17, कल. के क्षेत्राधिकार में आने वाले निर्धारितियों के सिवाय) एवं आ.आ. प. बं.—6, कल. (सं. आ. आ. विशे. रेंज—6, कल. के क्षेत्राधिकार में आने वाले निर्धारितियों के सिवाय) के क्षेत्राधिकार में हैं या आ सकते हैं, के संबंध में आयकर अधिनियम, 1961 की धारा 195 के सिवाय, अध्याय—17बी, अध्याय—17बीबी, अध्याय—17डी, अध्याय—21 एवं अध्याय—22 में दी गई सभी धाराओं से संबंधित ऐसे

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सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत शूक समझी जाती है।

9. आयकर अधिकारी (टीडीएस)  
वार्ड-21(5), कलकत्ता

ऐसे सभी निर्धारितियों जो आ.आ.प.ब.-5, कलकत्ता (सं. आ.आ. विशेष. रें-5, कल. के क्षेत्राधिकार में आने वाले सभी निर्धारितियों के सिवाय) एवं आ.नि. (छूट), कल. (संयुक्त आयकर निदेशक (छूट), बिस्ने. रें-कल. के क्षेत्राधिकार में आने वाले निर्धारितियों के सिवाय) के क्षेत्राधिकार में हैं या आ सकते हैं के संबंध में आयकर अधिनियम 1961 की सिवाय धारा 195 के अध्याय-17बी, अध्याय-17 बीबी, अध्याय-17डी, अध्याय-21 एवं अध्याय-22 में दी गई सभी धाराओं से संबंधित ऐसे सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत शूक समझी जाती है।

10. आयकर अधिकारी (टीडीएस)  
वार्ड-21(6), कलकत्ता

पश्चिम बंगाल के बाहर निर्धारित किये गये या निर्धारित किये जाने वाले मार्बजनिज सैंक्टर, हवाई कम्पनियां, बैंकों, विदेशी बैंकों, निजी बैंकों, निजी कोर्पो, द्वारा स्थापित बैंकों जिनको मु.आ.आ. या सं. आ.आ. (टीडीएस) जिनको 21(3), कलकत्ता द्वारा टेन आर्बिटित किया गया है या किया जा सकता है, से संबंधित मामलों को छोड़कर अन्य सभी निर्धारितियों के संबंध में आयकर अधिनियम 1961 की धारा 195 के सिवाय अध्याय-17बी, अध्याय-17बीबी, अध्याय-17 डी, अध्याय-21 एवं अध्याय-22 में दी गई सभी धाराओं से संबंधित ऐसे सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत शूक समझी जाती है।

11. आयकर अधिकारी (टीडीएस)  
वार्ड-21(7), कलकत्ता

ऐसे सभी व्यक्तियों जो आ.आ.प.ब.-11, कल. (सं. आ. आ. विशेष. रें-20, कल. एवं आयकर कार्यालयों, हुगली, मिदनापुर, हल्दिया, एवं सभी निर्धारितियों जी सं. आ.आ. रेंज आसनसोल के क्षेत्राधिकार में हैं, के सिवाय (एवं सभी व्यक्ति जिनकी आय ऐसे मामलों के सिवाय जिनको आ.नि. (छूट), कल. प्रभार एवं कलकत्ता, हाबड़ा, 24 परगना (उत्तर) एवं 24 परगना (दक्षिण) के अन्तर केन्द्रीय सरकार के आ.सं. अ. द्वारा निर्धारित किया गया है या किया जा सकता है। आयकर अधिनियम 1961 की धारा 10 के तहत छूट प्राप्त है, के क्षेत्राधिकार में हैं या आ सकते हैं, के संबंध में आयकर अधिनियम 1961 की धारा 195 के सिवाय अध्याय-17बी, अध्याय-17बीबी, अध्याय-17डी, अध्याय-21, अध्याय-22 में दी गई सभी धाराओं से संबंधित ऐसे सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत शूक समझी जाती है।

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12.	आयकर अधिकारी (टीडीएस) वाड-21(8), कलकत्ता	ऐसे सभी निर्धारितियों जो आ.आ.प.ब.-10, कल. (आयकर कार्यालयों मुंशिदाबाद, नदिया एवं सं. आ. आ., विसे. रेंज 24, कलकत्ता) एवं हावड़ा, 24 परगना (उत्तर) एवं 24 परगना (दक्षिण) के अन्तर्गत पश्चिम बंगाल सरकार के आ.सं.अ. के क्षेत्राधिकार में हैं या आ सकते हैं, के संबंध में आयकर अधिनियम 1961, के अध्याय-17बी, अध्याय-17बीबी, अध्याय-17डी, अध्याय-21 एवं अध्याय-22 में दी गई सभी धाराओं से संबंधित ऐसे सभी मामले जिनमें आयकर के संबंध में निर्धारितियों की उक्त अधिनियम की धारा 201 के तहत चुक समझी जाती है।

2. उपर्युक्त कार्यो को सम्पन्न करने में आयकर अधिनियम, 1961 आयकर नियम 1962 के सम्बद्ध नियमों के साथ पठित, की निम्नलिखित धाराओं के तहत उनके पास निर्धारण अधिकारी की शक्तियां भी होंगी।

(अ) आयकर अधिनियम 1961 की धारा 131 के तहत खोज, माध्य इत्यादि की प्रवृत्ति से संबंधित अधिकार।

(आ) आयकर अधिनियम, 1961 की धारा 133 के तहत सूचना के लिये बुलाने का अधिकार।

(इ) आयकर अधिनियम, 1961 की धारा 133ए के तहत सर्वेक्षण का अधिकार।

(ई) आयकर अधिनियम, 1961 की धारा 133बी के तहत निश्चित सूचना ग्रह संकरने का अधिकार।

(उ) आयकर अधिनियम, 1961 की धारा 134 के तहत कंपनियों के रजिस्टर का निरीक्षण करने का अधिकार।

यह अधिकृत्यना आदेश की तारीख से प्रवृत्ति होगी।

[स. स.आ./मुख्य/योजना/10/99-2000]

टी. के. दास, मुख्य आयकर आयुक्त

Calcutta, the 15th September, 1999

No. 6/99-2000

S.O. 3099.—A new Charge of A.C.I.T., (TDS) Circle-21(4), Calcutta under Joint Commissioner of Income-tax, Range-21, Calcutta in the Charge of Commissioner of Income-tax, West Bengal-VII, Calcutta is hereby created with effect from the date of this Order.

In exercise of the powers conferred by Sub-Section (1) of Section 120 of the Income-tax Act, 1961 and all other powers enabling me in this behalf and in partial modification of Notification No. 3/99-2000 dated 23-08-1999 and corrigendum No. 5/99-2000 dated 02-09-1999 I the Chief Commissioner of Income-tax, Calcutta hereby direct that the Assistant Commissioners of Income-tax (TDS) and Income-tax Officers (TDS) as specified in Column 2 of the Schedule in the Joint Commissioner of Income-tax, Range-21, Calcutta within the Charge of Commissioner of Income-tax, West Bengal-VII, Calcutta here under shall exercise the powers and perform the functions of an Assessing Officer in so far as they relates to Chapter-XVII-B, XVII-BB, Chapter-XVII-D, Chapter-XXI and XXII in respect of such person or Class of persons specified in Column 3 of the Schedule attached.

#### SCHEDULE

Sl.No.	Circle/Ward	Jurisdiction
1	2	3
1.	ACIT (TDS) Circle-21(1) Calcutta.	All matters relating to all Sections Contained in Chapter-XVII-B except Section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesseees deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all Public Sector and Airlines

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cases, Banks, Foreign Banks, Private Banks and Banks established by Mutual Funds which as assessed or assessable outside the charge of West Bengal, but have been or may be allotted TAN by the Office of the CCIT., or ACIT (TDS) Circle-21(3), Calcutta & also in respect of persons who are or would come under the jurisdiction of J.C.I.T., Spl. Range-16, Calcutta J.C.I.T., Spl. Range 17, Calcutta, J.C.I.T. Spl. Range-21, Calcutta, J.C.I.T., Spl. Range-22, Calcutta, J.C.I.T. Spl. Range-23, Calcutta and J.C.I.T., Spl. Range-24, Calcutta.

2. ACIT (TDS) Circle-21(2), Calcutta

All matters relating to all Sections contained in Chapter-XVII-B, except Section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesses deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all persons who are or would come within the Jurisdiction of J.C.I.T., Spl. Range-1, Calcutta J.C.I.T., Spl. Range-2, Calcutta J.C.I.T., Spl. Range-3, Calcutta J.C.I.T., Spl. Range-4, Calcutta J.C.I.T., Spl. Range-5, Calcutta and J.C.I.T., Spl. Range-6, Calcutta.

3. ACIT (TDS) Circle-21(3), Calcutta

All matters relating to all Sections contained in Chapter-XVII-B except Section 195 Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesses deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all persons who are or would come within the jurisdiction of J.C.I.T., Spl. Range-10, Calcutta J.C.I.T., Spl. Range-11, Calcutta J.C.I.T., Spl. Range-12, Calcutta J.C.I.T., Spl. Range-13, Calcutta J.C.I.T., Spl. Range-14, Calcutta J.C.I.T., Spl. Range-15, Calcutta J.C.I.T., Spl. Range-20, Calcutta & Joint Director of Income-tax (Exemption), Spl. Range, Calcutta.

4. ACIT (TDS) Circle-21(4), Calcutta

All matters relating to all Sections contained in Chapter-XVII-B except Section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesses deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all persons who are or would come within the jurisdiction of J.C.I.T., Spl. Range-7, Calcutta, J.C.I.T., Spl. Range-8, Calcutta and J.C.I.T., Spl. Range-9, Calcutta.

5. I.T.O. (TDS) Ward-21(1) Calcutta

All matters relating to all Sections contained Chapter-XVII-B, except section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesses deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all assesses who are for would come within the jurisdiction on CIT., WB.-I, Calcutta (except the assesses coming within the jurisdiction of J.C.I.T., spl. Range-1, Calcutta, J.C.I.T., spl. Range-7, Calcutta, J.C.I.T., Spl. Range-11, Calcutta and J.C.I.T., spl. Range-22, Calcutta) and C.I.T., W.B.-VII, Calcutta.

6. I.T.O. (TDS) Ward-21(2), Calcutta

All matters relating to all sections contained in Chapter-XVII-B, except section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesses deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all assesses who are or would

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come within the jurisdiction of C.I.T., WB-II, Calcutta (except all assesseees coming within the jurisdiction of J.C.I.T., Spl. Range-2, Calcutta, J.C.I.T., Spl. Range-10, Calcutta, J.C.I.T., Spl. Range-12, Calcutta and J.C.I.T., Spl. Range-21, Calcutta and all assesseees coming within the jurisdiction of the Income-tax Office at Andaman and Nicobar Islands) and C.I.T., W.B.-VIII, Calcutta (except all assesseees coming within the jurisdiction of J.C.I.T., Spl. Range-86, Calcutta).

7. I.T.O. (TDS) Ward-21(3), Calcutta

All matters relating to all Sections contained in Chapter-XVII-B, except Section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesseees deemed to be in default in respect of tax U/s, 201 of the said Act, in respect of all assesseees who are or would come within the jurisdiction of C.I.T., WB-III, Calcutta (except all assesseees coming within the jurisdiction of J.C.I.T., Spl. Range-3, Calcutta, J.C.I.T., Spl. Range-13, Calcutta, J.C.I.T., Spl. Range-16, Calcutta and J.C.I.T., Spl. Range-23, Calcutta) and C.I.T., W.B.-IX, Calcutta (except all assesseees coming within the jurisdiction of J.C.I.T., Spl. Range-9, Calcutta).

8. I.T.O. (TDS) Ward-21(4), Calcutta

All matters relating to all Section contained in Chapter-XVII-B, except Section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961, for assesseees deemed to be in default in respect of tax U/s, 201 of the said Act, in respect of all assesseees who are or would come within the jurisdiction of C.I.T., W.B.-IV, Calcutta (except all assesseees coming within the jurisdiction of J.C.I.T., Spl. Range-4, Calcutta, J.C.I.T., Spl. Range-14, Calcutta, J.C.I.T., Spl. Range-15, Calcutta and J.C.I.T., Spl. Range-17, Calcutta) and C.I.T., WB.-VI, Calcutta (except all assesseees coming within the jurisdiction of J.C.I.T., Spl. Range-6, Calcutta).

9. I.T.O. (TDS) Ward-21(5), Calcutta

All matters relating to all Section contained in Chapter-XVII-B except Section 195, Chapter-XVII-BB, Chapter XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assesseees deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all assesseees who are or would come within the jurisdiction of C.I.T., WB-V, Calcutta (except all assesseees coming within the jurisdiction of J.C.I.T., Spl. Range-5, Calcutta) and D.I.T. (Exemption), Cal. (except all assesseees coming, within the jurisdiction of Joint Director of Income-tax (Exemption), Spl. Range, Calcutta).



1	2	3
10. I.T.O. (TDS) Ward-21(6), Calcutta	All matters relating to all Section contained in Chapter-XVII-B, except Section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assessee deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all assessee other than assessee of Public Sector, Airlines, Banks, Foreign Banks, Private Banks, Banks established by Mutual Funds who are assessed or assessable outside the charge of West Bengal but have been or may be allotted TAN by the Office of the CCIT, Cal. or ACIT (TDS), Circle-21 (3), Calcutta.	
11. I.T.O. (TDS) Ward-21(7), Calcutta	All matters relating to all Sections contained in Chapter-XVII-B, except Section 195, Chapter-XVII-BB, Chapter-XVII-D, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assessee deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all the persons who are or would come within the jurisdiction of C.I.T., WB.-XI, Calcutta (except all assessee coming within the jurisdiction of J.C.I.T., Spl. Range-20, Calcutta and all such cases coming within the jurisdiction of Income-tax Officers at Hooghly, Midnapore, Haldia and all assessee within the jurisdiction of J.C.I.T., Range-Asansol) all persons whose income is exempt U/s. 10 of the Income-tax Act, 1961 [except cases which are assessed/assessable in the charge of D.I.T. (Exemption) Calcutta] and D.D.Os. of Central Government within Calcutta, Howrah, 24-Parganas (North) and 24-Parganas (South).	
12. I.T.O. (TDS) Ward-21(B), Calcutta	All matters relating to all Sections contained in Chapter-XVII-B except Section 195 Chapter-XVII-BB, Chapter-XVII-O, Chapter-XXI and Chapter-XXII of the Income-tax Act, 1961 for assessee deemed to be in default in respect of tax U/s. 201 of the said Act, in respect of all assessee who are or would come within the jurisdiction of C.I.T., WB.-X, Calcutta (except all cases coming within the jurisdiction of Income-tax Officers at Murshidabad, Nadia and J.C.I.T., Spl. Range-24, Cal.) and D.D.Os. of Government of West Bengal within Calcutta, Howrah, 24-Parganas (North) and 24-Parganas (South).	

2. In the performance of the above functions they shall also have the powers of an Assessing Officer under the following Sections of the Income-tax Act, 1961 read with relevant Rules of the Income-tax Rules, 1962.

- (a) Power regarding discovery, production of evidence etc. under Section 131 of the Income-tax Act, 1961.
- (b) Power to call for information Under Section 133 of the Income-tax Act, 1961.
- (c) Power of Survey Under Section 133A of the Income-tax Act, 1961.
- (d) Power to collect certain information U/s. 133B of the Income-tax Act, 1961.
- (e) Power to Inspect the Register of Companies U/s. 134 of the Income-tax Act, 1961.

This Notification shall take effect from the date of the Order.

[No.- AC/HQ/Planning/10/99/2000]

T. K. DAS, Chief Commissioner of Income-tax

पुणे सीमा शुल्क आयुक्तालय के आयुक्त का कार्यालय

(आर्थिक कार्य विभाग)

पुणे, 13 अक्टूबर, 1999

(बैंकिंग प्रभाग)

संख्या 8/99 (एन. टी.)-सीमा-शुल्क

नई दिल्ली, 20 अक्टूबर, 1999

का.आ. 3100.—भारत सरकार, वित्त मंत्रालय, राजस्व विभाग, नई दिल्ली द्वारा दिनांक 1-7-94 को जारी की गयी अधिसूचना संख्या 33/94 सीमा शुल्क (मैन टैरिफ) द्वारा सुझे प्रदान किए गए अधिकारों को कार्यान्वित करते हुए मै. सी. के. कलोनी, आयुक्त पुणे सीमा शुल्क आयुक्तालय, एतद्वारा सीमा शुल्क अधिनियम, 1962 (1962 का 52) की धारा 9 की व्यवस्थाओं के अधीन महाराष्ट्र राज्य के सांगली जिले के कवठे महाकाल तहसील के देशिय गांव के परिसर को, शतप्रतिशत निर्यात लक्ष्मी यूनीट स्थापना के प्रयोजनार्थ, वेयर हाउसींग स्टेशन घोषित कर रहा हूं।

[फाइल संख्या : VIII (कस्टम्स) 40-27/टी सी/99]  
सी. के. कलोनी, आयुक्त

का. आ. 3101.—बैंकारी विनियमन अधिनियम 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 11 की उपधारा (1) के उपबन्ध सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तारीख से 31 मार्च, 2003 तक जिला सहकारी केन्द्रीय बैंक मर्यादित, बालाघाट (म. प्र.) पर लागू नहीं होंगे।

[फा. सं. 1(41)/99-ए. सी.]

एल. सी. टूरा, अवर सचिव

OFFICE OF THE COMMISSIONER OF CUSTOMS:  
PUNE

Pune, the 13th October, 1999

No. 8/99(NT)-CUS

S.O. 3100.—In exercise of the powers conferred on me by the Notification No. 33/94-CUS(NT) dated 1-7-94 of the Government of India, Ministry of Finance, Department of Revenue, New Delhi, I, C. K. Kaloni, Commissioner of Customs, Pune, hereby declare Village Dushing, Taluka, Kavathe Mahankal, District Sangli, State of Maharashtra to be warehousing station under Section 9 of the Customs Act, 1962 (52 of 1962), the setting up of 100% E.O.U.s.

[F. No. VIII(CUS)40-27/TC/99]  
C. K. KALONI, Commissioner

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 20th October, 1999

S.O. 3101.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendation of the Reserve Bank of India declares that the provisions of sub-section (1) of Section 11 of the said Act shall not apply to Jila Sahakari Kendriya Bank Maryadit, Balaghat, (Madhya Pradesh) from the date of publication of this notification in the Official Gazette upto 31 March, 2003.

[F. No. 1(41)/99-AC]  
L. C. TOORA, Under Secy.

पर्यटन मंत्रालय

नई दिल्ली, 5 अक्टूबर, 1999

का.आ. 3102.—सार्वजनिक परिसर (अनधिकृत दखलदारों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों के अनुसरण में, केन्द्र सरकार नीचे की सारणी के कालम (1) में उल्लिखित अधिकारी को एतद्वारा नियुक्त करते हैं, जो राजपत्रित सरकारी अधिकारी के समकक्ष अधिकारी हैं तथा उपर्युक्त अधिनियम के अनुसार सम्पदा अधिकारी होंगे और साथ ही नीचे की सारणी के कालम (2) में उल्लिखित सार्वजनिक परिसरों के संबंध में

में अपने स्थानीय अधिकार क्षेत्र की सीमा में रहकर उपर्युक्त अधिनियम के तहत सम्पदा अधिकारी को प्रदत्त शक्ति का प्रयोग करने हुए अपने ड्यूटी को कार्य अंजाम देंगे :—

## सारणी

अधिकारी का नाम	सार्वजनिक परिसरों की श्रेणी तथा अधिकार क्षेत्र की स्थानीय सीमाएँ
1	2
उप महाप्रबंधक (एअर डी), पूर्वी क्षेत्र, भारत पर्यटन विकास निगम लि., होटल एयरपोर्ट अशोक, कलकत्ता एयरपोर्ट, कलकत्ता (पश्चिम बंगाल)	भारत पर्यटन विकास निगम लि. के मातहत की अथवा निगम द्वारा पट्टे पर लिये गये सभी परिसर जो पश्चिम बंगाल, बिहार, उड़ीसा और आसाम में स्थित हों।

[स. 6/21/91-पीएल्यू(टी)]

के रावल, सचिव

## MINISTRY OF TOURISM

New Delhi, the 5th October, 1999

S.O. 3102.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 (40 of 1971) the Central Government hereby appoints the officer mentioned in column (1) of the table below, being officer equivalent to the rank of gazetted officer of the Government to be Estate Officer for the purpose of the said Act, who shall exercise the powers conferred and perform the duties imposed on estate officer by or under the said Act within the local limits of his jurisdiction in respect of Public Premises specified in the corresponding entry in column (2) of the said table, namely:—

TABLE

Designation of the Officer	Categories of public premises and local limits of the jurisdiction
1	2
Dy. General Manager (HRD), Eastern Region, India Tourism Development Corporation Ltd. Hotel Airport Ashok, Calcutta Airport, Calcutta (West Bengal).	All premises belonging to or taken on lease by India Tourism Development Corporation Ltd. and situated in the States of West Bengal, Bihar, Orissa & Assam.

[No. 6/21/91-PSU(T)]  
K. RAWAL, Under Secy.

## डाक विभाग

पोस्टमास्टर जनरल कार्यालय

कालिकट, 19 अक्टूबर, 1999

का. प्रा. 3103.—केन्द्रीय सरकार की राय में श्री के. चन्दू, डाकिया, मट्टनूर से संबंधित विभागीय जांच में गवाहों के रूप में :

1. श्रीमती चंबोलन देवकी, अलकरम्मल हाउस, नेल्लूनी, मट्टनूर,

2. श्री ओ. मुकुन्दन, व्यापारी, रेशन शॉप के समीप, नेल्लूनी, मट्टनूर,

को बुलाना आवश्यक है ।

अब इसलिए विभागीय जांच (गवाहों की उपस्थिति एवं वस्तावेजों का प्रस्तुति प्रवर्तन) अधिनियम 1972 (1972 का 18) की धारा 4 की उप-धारा (1) द्वारा प्रवृत्त शक्तियों का प्रायोजन करने हुए, पोस्टमास्टर जनरल, उत्तरी क्षेत्र, भारत सरकार, संचार मंत्रालय (डाक व तार बोर्ड), के दिनांक 18 मई 1976 की अधिसूचना सं. 201/61/75 अनु. II के अनुसार उपयुक्त अधिनियम की धारा 4 की उपधारा (2) में उल्लिखित एक प्राधिकारी होने के कारण श्री ई. नाणु, सहायक अधीक्षक डाकघर, तलशेरी उपमंडल को श्री के. चन्दू, डाकिया, मट्टनूर, तलशेरी डाक मंडल के विरुद्ध सी सी एस (सी सी ए) नियम 1965 के नियम 14 के अधीन जांच के संबंध में उक्त अधिनियम की धारा 5 में उल्लिखित शक्ति का प्रायोजन करने के लिए जांच प्राधिकारी के रूप में प्राधिकृत करती है ।

[सं. आई एन बी/3-3/92/एस टी टी/डी एल जी]

श्रीमती इन्दिरा कृष्ण कुमार, पोस्ट मास्टर जनरल,  
उत्तरी क्षेत्र

## DEPARTMENT OF POSTS

Office of the Postmaster General

Calicut, the 19th October, 1999

S.O. 3103.—Whereas the Central Govt. is of that for the purpose of the Departmental Inquiry relating to Shri K. Chandu, Postman Mattanur, it is necessary to summon as witnesses :

1. Smt. Chambolan Devaki, Alkarammal House, Nelloni, Mattannur,
2. Shri O. Mukundan, merchant, Near ration shop, Nelloni, Mattannur,

Now therefore, in exercise of powers conferred by sub-section (1) section 4 of the Departmental

Inquiries (Enforcement of Attendance of witnesses and Production of Documents) Act, 1972 (18 of 1972) the Postmaster General, Northern Region, Calicut being an authority specified under sub-section (2) of section 4 of the said act vide Government of India, Ministry of Communications (P & T Board), Notification No. 201/61/75-Disc. II dated the 18th May, 1976 hereby authorises Shri E. Nanu, Assistant Superintendent of Post Offices, Tellicherry Sub-Division as the Inquiry Authority to exercise the power specified in Section 5 of the said Act in relation to the Inquiry under Rule 14 of the CCS(CCA) Rules, 1965 against Shri K. Chandu, Postman, Mattannur in Telicherry Postal Division.

[No. INV/3-3/92/STT/Dig]

MRS. INDIRA KRISHNAKUMAR, Postmaster  
General, Northern Region

खाद्य और उपभोक्ता मामले मंत्रालय

(शर्करा और खाद्य तेल विभाग)

नई दिल्ली, 11 अक्टूबर, 1999

का. प्रा. 3104.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम (4) के अनुसरण में, खाद्य और उपभोक्ता मामले मंत्रालय (शर्करा और खाद्य तेल विभाग) के निम्नलिखित अधीनस्थ कार्यालय, जिसके कर्मचारीमुख ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :—

1. राष्ट्रीय गन्ना और चीनी प्रौद्योगिकी संस्थान, मऊ (उत्तर प्रदेश)

[संख्या ई-11011/1/99-हिन्दी]

कान्ति देव, संयुक्त सचिव

## MINISTRY OF FOOD &amp; CONSUMER AFFAIRS

(Department of Sugar &amp; Edible Oils)

New Delhi, the 11th October, 1999

S.O. 3104.—In pursuance of sub-rule 4 of rule 10 of Official Language (Use for official purpose of the Union) Rules, 1976, the Central Government hereby notifies the following subordinate office of the Ministry of Food and Consumer Affairs (Department of Sugar and Edible Oils), the staff whereof have acquired the working knowledge of Hindi :—

National Sugarcane and Sugar Technology Institute, Mau (U.P.)

[No. E-11011/1/99-Hindi]

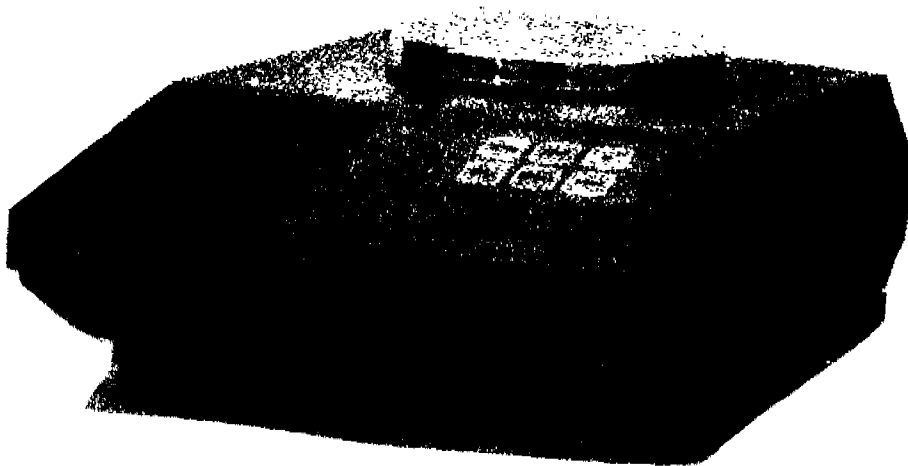
KANTI DEB, Jt. Secy.

नई दिल्ली, 11 अक्टूबर, 1999

**का.आ. 3105.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाली 'एच सी' ऐसी श्रृंखला की, अंकक सूचक सहित अस्वचालित, (मेज तल प्रकार की) तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम 'विसका' है, (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स विजीलेंट स्केलस एंड सर्विसेज, पी. ओ. बाक्स 7181, 3, जमाल हाऊस, आना सागर मार्ग, सी. एम. टी. रोड, कुर्ला (पश्चिम), मुंबई-400 070 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/73 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है ;

यह मॉडल उच्च यथार्थता वर्ग (यथार्थता वर्ग II) का अंकक प्रदर्श सहित, अस्वचालित मेज तल प्रकार का तोलन उपकरण है, जिसकी अधिकतम क्षमता 12 किलोग्राम और न्यूनतम क्षमता 50 ग्राम है। सत्यापन मापमान अन्तराल (ई) 1 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 1,00,000 (एन  $\leq$  1,00,000) तक है तथा जिसका "ई" मान  $1 \times 10^6$ ,  $2 \times 10^6$ , और  $5 \times 10^6$ , है 'के' धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा. सं. डब्ल्यू. एम.-21(11)/97 ]

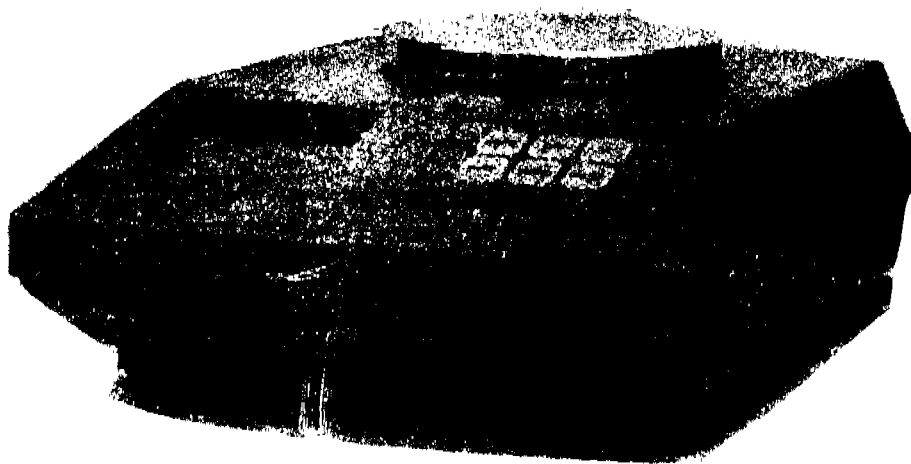
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

**S. O. 3105.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of Section 36 of the said Act, the Central Government hereby publishes the certificate of approval of Model of non-automatic, weighing instrument (table top type) with digital indication of "HAC" series with brand name 'VISCA' (hereinafter referred to as the model) belonging to high accuracy class (Accuracy class II) manufactured by M/s Vigilant Scales and Services, P O Box 7181, 3, Jamal House, Anasagar Marg, Off. C.S.T. Road, Kurla (W) Mumbai-400 070, and which is assigned the approval mark IND/09/99/73;

The model is a non-automatic weighing instruments of table top type with digital indication of maximum capacity 12 kg. and minimum capacity of 50 g. and belonging to high accuracy class (Accuracy class II) The value of verification scale interval (e) is 1 g. The display unit is of light emitting diode type. The instrument operates on 230 V, 50 Hertz, alternate current power supply.



And further, in exercise of the powers conferred by sub-section (12) of Section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of same make and accuracy and class with maximum number of scale interval (n) upto 1,00,000 ( $n \leq 1,00,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$ , and  $5 \times 10^k$ , k being positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which, the approved model has been manufactured.

[F No. WM-21 (11)/97]

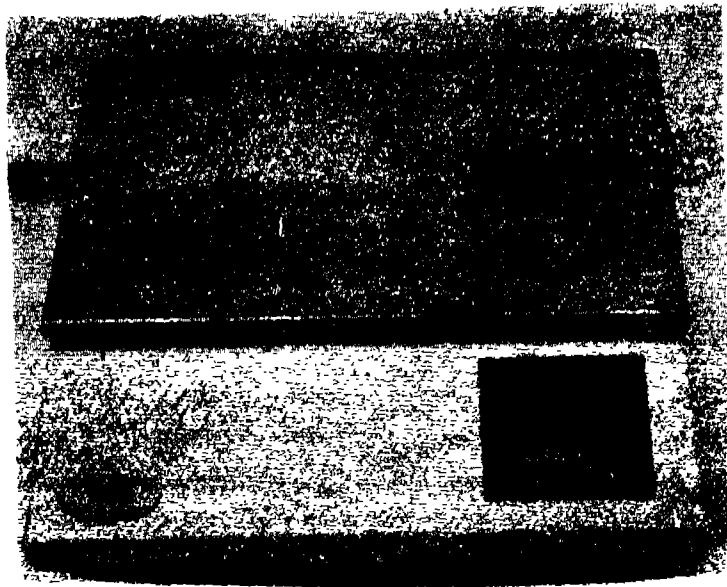
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अक्टूबर, 1999

**क्र.आ. 3106.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली 'ए सी' ऐसी शृंखला की, अंकक सूचन सहित अस्वचालित, (मेज तल प्रकार का) तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम 'क्सिका' है, (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स विजीलेंट स्केलस एंड सर्विसेज, पी. ओ. बाक्स 7181, 3, जमाल हाकस, आना सागर मार्ग, सी. एस. टी. रोड, कुर्ला (पश्चिम), मुंबई-400 070 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/74 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक प्रदर्श सहित, अस्वचालित, मेजतल प्रकार का तोलन उपकरण है, जिसकी अधिकतम क्षमता 5 किलोग्राम और न्यूनतम क्षमता 20 ग्राम है। सत्यापन मापमान अन्तराल (ई) 1 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उम्मी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन  $\leq$  10,000) तक है तथा जिसका "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$ , और  $5 \times 10^*$ , हैं 'के' धनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा. सं. डक्यू. एम -21(11)/97 ]

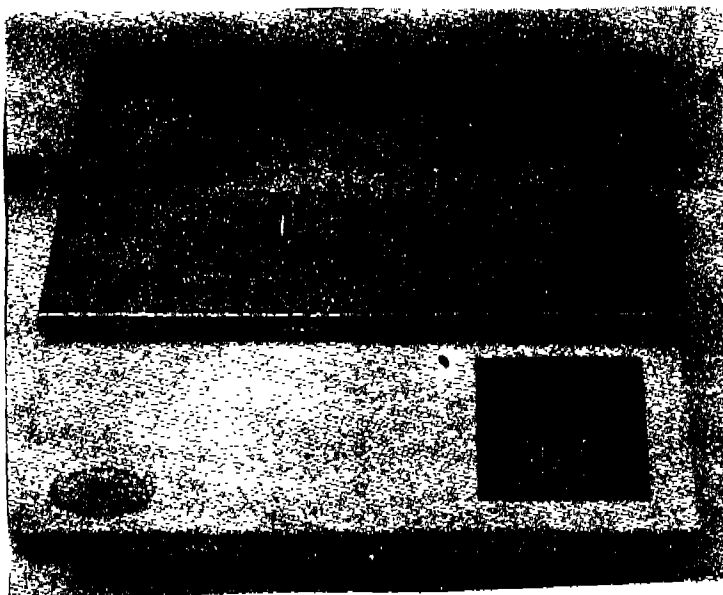
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

**S. O. 3106.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of non-automatic, weighing instrument (table top type) with digital indication of "AC" series with brand name 'VISCA' (hereinafter referred to as the model) belonging to medium accuracy class (Accuracy class III) manufactured by M/s Vigilant Scales and Services, P.O. Box 7181, 3, Jamal House, Anasagar Marg, Off C.S.T. Road, Kurla (W) Mumbai-400 070, and which is assigned the approval mark IND/09/99/74;

The model is a non-automatic weighing instruments of table top type with digital indication of maximum capacity 5 kg. and minimum capacity of 20 g. and belonging to medium accuracy class (Accuracy class III) The value of verification scale interval (e) is 1 g. The display unit is of light emitting diode type. The instrument operates on 230 V, 50 Hertz, alternate current power supply.



And further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instrument of same make and accuracy and class with maximum number of scale interval (n) upto 10,000 ( $n \leq 10,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$ , and  $5 \times 10^k$ , k being positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which, the approved model has been manufactured.

[F. No. WM-21(11)/97]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

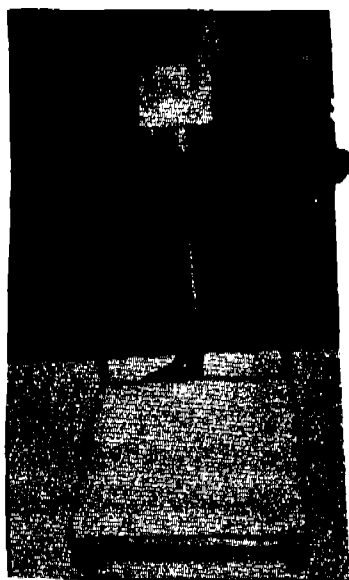


नई दिल्ली, 11 अक्टूबर, 1999

**का.आ. 3107.**—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप हैं और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली 'पी एल टी' ऐसी शृंखला की, अंकक सूचक सहित अस्थचालित, (प्लेटफार्म प्रकार का) तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम 'विसका' है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स विजीलेंट स्केलस एंड सर्विसेज, पी. ओ. बाक्स 7181, 3, जमाल हाउस, आना सागर मार्ग, सी. एम. टी. रोड, कुर्ला (पश्चिम), मुंबई-400 070 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/75 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक प्रदर्श सहित, प्लेटफार्म प्रकार का तोलन उपकरण है, जिसकी अधिकतम क्षमता 200 किलोग्राम और न्यूनतम क्षमता 1 किलोग्राम है। सत्यापन मापमान अन्तराल (ई) 50 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जक डायोड प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन  $\leq$  10,000) तक है तथा जिसका "ई" मान  $1 \times 10^3$ ,  $2 \times 10^3$ ,  $5 \times 10^3$ , हैं 'के' घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(11)/97]

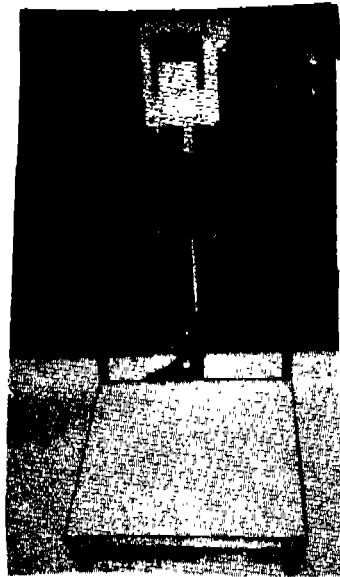
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

S. O. 3107.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic, weighing instrument (platform type) with digital indication of "PLT" series with brand name 'VISCA' (hereinafter referred to as the model) belonging to medium accuracy class (Accuracy class III) manufactured by M/s Vigilant Scales and Services, P.O. Box 7181, 3, Jamal House, Anasagar Marg, Off. C.S.T. Road, Kurla (W) Mumbai-400 070, and which is assigned the approval mark IND/09/99/75,

The model is a non-automatic weighing instruments of platform type with digital indication of maximum capacity to 200 kg and minimum capacity of 1 kg. and belonging to medium accuracy class (Accuracy class III). The value of verification scale interval (e) is 50 g. The display unit is of light emitting diode type. The instrument operates on 230 V, 50 Hertz, alternate current power supply



And further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover the weighing instruments of same make and accuracy class with maximum number of scale interval (n) upto 10,000 ( $n \leq 10,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$ ,  $5 \times 10^k$ , k being positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which, the approved model has been manufactured

[F. No WM-21 (11)/97]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अक्टूबर, 1999

का.आ.3108.—केन्द्रीय सरकार बाट और माप मानक अधिनियम, 1976 (1976 का 60) की धारा 36 की उपधारा (7) और उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के खाद्य और उपभोक्ता मामले मंत्रालय की अधिसूचना 975 तारीख 1 मई, 1998 में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना, के पैरा चार के स्थान पर निम्नलिखित पैरा रखा जाएगा, अर्थात्

और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मेक, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदन मॉडल का विनिर्माण किया गया है और जिसके सत्यापन मापमान का अंतराल (एन) की अधिकतम संख्या 1,00,000 ( $\text{एन} \leq 1,00,000$ ) तक है तथा जिसका "ई" मान 1, 2 और 5 श्रृंखला का है।

[फा. सं. डब्ल्यू. एम.-21(10)/97]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

S. O. 3108.—In exercise of the powers conferred by sub-sections (7) and (12) of section 36 of the Standards of Weights and Measures Act, 1976 (60 of 1976), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Food and Consumer Affairs vide S.O. 975 dated 1st May, 1998, namely:—

In the said notification, for paragraph four, the following paragraph shall be substituted, namely:—

"Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the said model shall also cover the weighing instruments of similar make, accuracy and performance of same series with number of verification scale interval 'n' upto 100,000 ( $n \leq 100,000$ ) and with 'c' value of 1, 2 and 5 series, manufactured by same manufacturer in accordance with the same principle, design and with same materials with which, the approved model has been manufactured".

[F. No. WM-21 (10)/97]

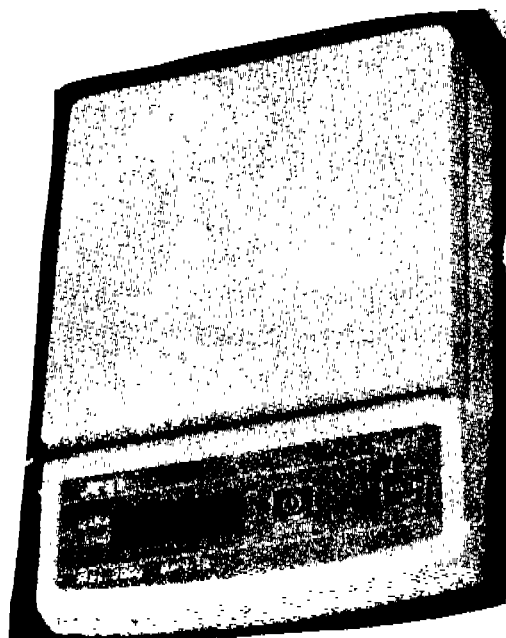
P.A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3109.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली "एच एल" श्रृंखला की, अंकक सूचन सहित, अस्वचालित (मेज तल प्रकार की) तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम "एंड" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मेसर्स एचन इंटरप्राइजेज, 5 ई वैभव, 140 एस. पी. रोड, (इरला) बिले चार्ले, (पश्चिम), मुम्बई-400 056 द्वारा किया गया है और जिसे अनुमोदन विष्टन आई एन डी/09/99/69 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक सूचन सहित मेज तल प्रकार के अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 200 ग्राम और न्यूनतम क्षमता 2 ग्राम है। स्थापन मापमान अंतराल (ई) 100 मिलीग्राम है। प्रदर्श इकाई द्रव्य क्रिस्टल डायोड प्रकार की है। उपकरण 230 वोल्ट और 50 हर्ट्ज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय कर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम, की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी श्रृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके स्थापन मापमान का अंतराल (एन) की अधिकतम संख्या 10,000 ( $एन \leq 10,000$ ) तक है तथा जिसका "ई" मान  $1 \times 10^3$  और  $5 \times 10^4$ , हैं 'के' घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[फा. सं. डब्ल्यू. एम.-21(36)/97]

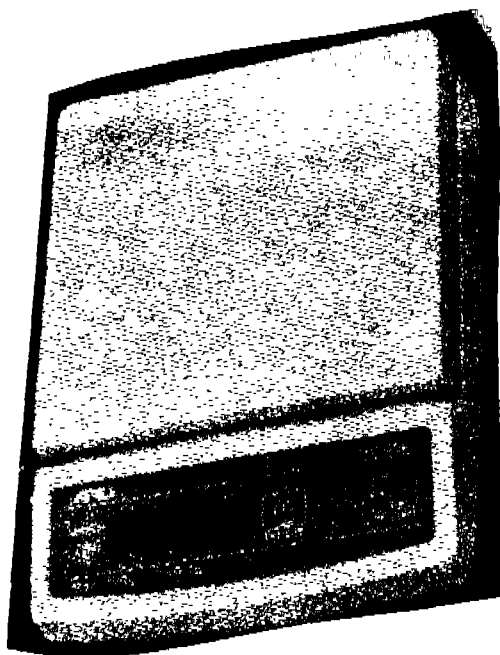
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

**S. O. 3109.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic weighing instrument (table top type) with digital indication of "HL" series with brand name "AND" (hereinafter referred to as the model) belonging to medium accuracy class (Accuracy class III), manufactured by M/s Avon Enterprise, 5 E Vaibhav, 140, S.V. Road,, (Irla) Vile Parle, (W), Mumbai-400 056 and which is assigned the approval mark IND/09/99/69;

The model is a non-automatic weighing instruments of table top type with digital indication of maximum capacity 200 g and minimum capacity of 2 g and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 100 mg. The display unit is of liquid crystal diode type. The instrument operates on 230 V, 50 Hertz alternate current power supply;



And further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover weighing instruments of same make, and accuracy class with maximum number of scale interval (n) upto 10,000 ( $n \leq 10,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  and  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved model has been manufactured.

[F. No. WM-21 (36)/97]

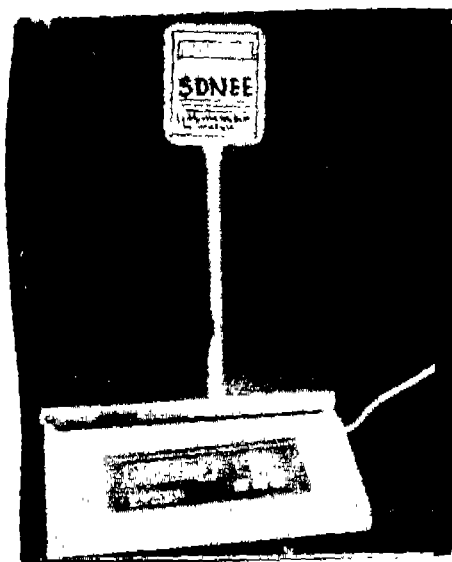
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3110.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उच्च यथार्थता वर्ग (यथार्थता वर्ग II) वाली "एस डब्लू एस टी टी" शृंखला की, अंकक सूचन सहित, अस्वचालित (मेज तल प्रकार) तोलन उपकरण के मॉडल (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) का, जिसके ब्रांड का नाम 'सोनी' है और जिसका विनिर्माण मेसर्स सोनी वेंडिंग सिस्टम्स, 6/10, बल्लभ पार्क शाप, डी-केबिन, साबरमती, अहमदाबाद - 380 019 द्वारा किया गया है और जिसे अनुमोदन विह्न आई एन डी/09/99/66 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल उच्च यथार्थता वर्ग (यथार्थता वर्ग II) का अंकक प्रदर्श सहित अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 22 किलोग्राम और न्यूनतम क्षमता 100 ग्राम है। सत्यापन मापमान अन्तराल (ई) 2 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जन डायोड (एल ई डी) प्रकार की है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय कर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाण पत्र के अंतर्गत, उसी शृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 100,000 (एन  $\leq 100,000$ ) तक है तथा जिसका "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$ , और  $5 \times 10^*$ , हैं 'के' घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा. सं. डब्ल्यू. एम.-21(89)/97 ]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

**S. O. 3110.**—Where as the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure ), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic weighing instrument (Table Top Type) with digital indication of (hereinafter referred to as the Model) of "SWS TT" series belonging to high accuracy class (Accuracy class II), and with brand name 'SONEE', manufactured by M/s Sonee Weighing Systems, 6/10, Vallabh Park Shop, D-cabin, Sabarmati, Ahmedabad- 380019 and which is assigned the approval mark IND/09/99/66;

The model is a non-automatic weighing instruments with digital indication of maximum capacity 22.kg and minimum capacity of 100 g and belonging to High accuracy class (accuracy class II). The value of verification scale interval (e) is 2 g. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 220 V, 50 Hertz alternate current power supply;



And further, in exercise of the power conferred sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover weighing instruments of same make, and accuracy class with maximum number of scale interval (n) upto 100,000 ( $n \leq 100,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  and  $5 \times 10^k$ , k being a positive or negative whole number or equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved Model has been manufactured.

[F. No. WM-21 (89)/97]

P. A. KRISHNAMOORTHY, Director. Legal Metrology

नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3111.—केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) वाली "एस डब्ल्यू एस पी एफ" वाली शृंखला की, अंकक प्रदर्श सहित अस्वचालित (प्लेट फार्म) तोलन उपकरण के मॉडल का, जिसके ब्रांड का नाम 'सोनी' है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मेसर्स सोनी वेहग सिस्टम्स, 6/10, बल्लभ पार्क शाप, डी-केबिन, साबरमती, अहमदाबाद - 380 019 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/99/67 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल मध्यम यथार्थता वर्ग (यथार्थता वर्ग III) का अंकक प्रदर्श सहित अस्वचालित तोलन उपकरण है, जिसकी अधिकतम क्षमता 120 किलोग्राम और न्यूनतम क्षमता 400 ग्राम है। सत्यापन मापमान अंतराल (ई) 20 ग्राम है। प्रदर्श इकाई प्रकाश उत्सर्जन डायोड (एल ई डी) प्रकार की है। उपकरण 220 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय कर कार्य करता है;



और, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाण पत्र के अंतर्गत, उसी शृंखला के उसी मेक और यथार्थता वाला ऐसा तोलन उपकरण भी होगा जिसका विनिर्माण उसी विनिर्माता द्वारा उसी डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अंतराल (एन) की अधिकतम संख्या 10,000 (एन  $\leq$  10,000) तक है तथा जिसका "ई" मान  $1 \times 10^*$ ,  $2 \times 10^*$ , और  $5 \times 10^*$ , हैं 'के' घनात्मक या ऋणात्मक पूर्णांक या शून्य के समतुल्य है।

[ फा. सं. डब्ल्यू. एम.-21(89)/97 ]

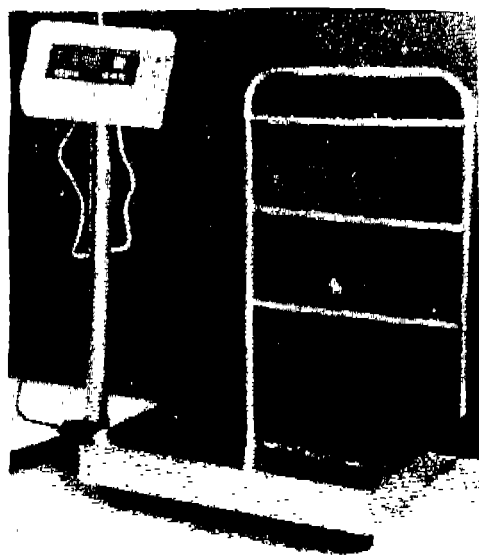
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

**S. O. 3111.**—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see figure), is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions.

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of model of non-automatic weighing instrument (Platform Type) with digital indication of (hereinafter referred to as the Model) of 'SWS PF' series belonging to medium accuracy class (Accuracy class III), and with brand name 'SONEE', manufactured by M/s Sonce Weighing Systems, 6/10, Vallabh Park Shop, D-Cabin, Sabarmati, Ahmedabad-380 019 and which is assigned the approval mark IND/09/99/67;

The model is a non-automatic weighing instrument with digital indication of maximum capacity 120 kg and minimum capacity of 400 g and belonging to medium accuracy class (accuracy class III). The value of verification scale interval (e) is 20g. The display unit is of Light Emitting Diode (LED) type. The instrument operates on 220 V, 50 Hertz alternate current power supply;



And further, in exercise of the power conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the model shall also cover weighing instruments of same make, and accuracy class with maximum number of scale interval (n) upto (10,000  $n \leq 10,000$ ) and with 'e' value of  $1 \times 10^k$ ,  $2 \times 10^k$  and  $5 \times 10^k$ , k being a positive or negative whole number of equal to zero, manufactured by the same manufacturer with the same design and with the same materials with which the approved Model has been manufactured.

[F. No. WM-21(89)/97]

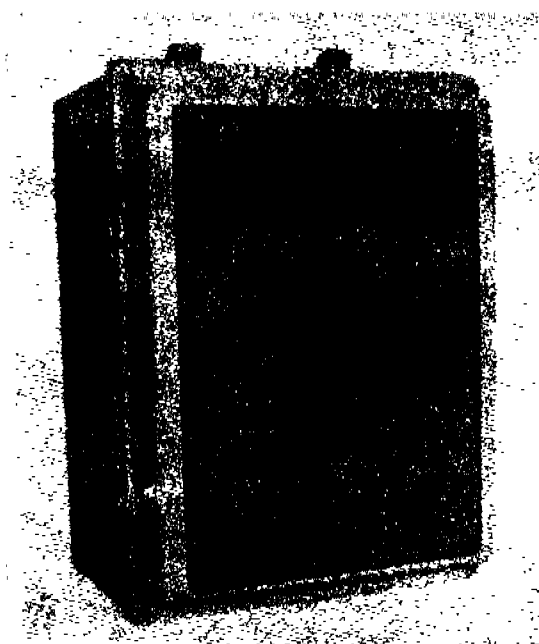
P. A. KRISHNAMOORTHY, Director, Legal Metrology



नई दिल्ली, 11 अक्टूबर, 1999

का.आ. 3112.—केन्द्रीय सरकार का, नेशनल इंस्टीट्यूट आफ स्टैंडर्ड्स एण्ड टेक्नोलॉजी गाइडर्सवर्ग, मारीलैण्ड 20899, संयुक्त राष्ट्र अमेरिका द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (आकृति भीचे दी गई हैं) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, “एम” संवेदक मॉडल के अंकक सूचन वाले कारिऑसिस मात्रा प्रवाह मीटर और मात्रा प्रवाह प्रेपी ‘डाटा मैट 2100’ के मॉडल का, जिसके ब्रांड का नाम “एम” है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मेसर्स सचलुम्बरगर इंडस्ट्रीज, 1310 इमिरेल्ड रोड, ग्रीन वुड, एस सी 29646 संयुक्त राष्ट्र अमेरिका द्वारा किया गया है और भारत में यह सचलुम्बरगर इंडस्ट्रीज इंडिया, 28, उद्योग विहार, फेज-1, धुंध धारा, गुडगांव-122016 द्वारा विक्रय किया जा रहा है। जिसे अनुमोदन विह्न आई एन डी/13/99/20 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;



यह मॉडल “एम” मॉडल के संवेदक के साथ अंकक इलेक्ट्रॉनिक कारिऑसिस मात्रा प्रवाह मीटर और “डाटा मैट 2100” के मात्रा प्रवाह प्रेपी है। मॉडल की प्रवाह रेंज 4.6 किलोग्राम प्रति मिनट से 4500 किलोग्राम प्रति मिनट है। मीटर 0.5 के 1.0 विशिष्ट घनत्व के वाले द्रवों माप मान के लिए प्रयोग किया जा सकता है। इस रेंज के अंतर्गत शोधित पेट्रोलियम उत्पाद, विलायको, वैमानिक ईंधन, अमोनिया, द्रवी कृत पेट्रोलियम गैस (एल पी जी) और जल आते हैं।

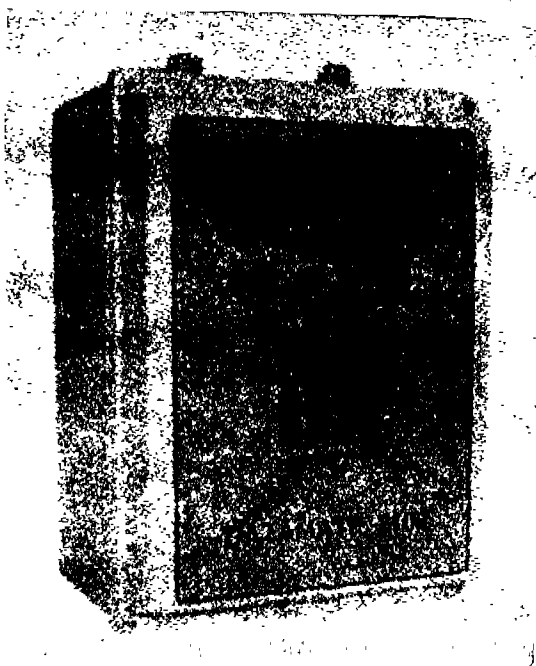
[ फा. सं. डब्ल्यू. एम.-21(129)/98 ]

पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 11th October, 1999

S. O. 3112.—Whereas the Central Government, after considering the report submitted to it by the National Institute of standards and Technology, Gaithersburg, Maryland 20899, United States of America is satisfied that the model described in the said report (figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976), and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the model of the digital indicating Coriolis Mass Flow Meter of Sensor model "m" and mass flow transmitter model "Datamate 2100" with brand name "m" (hereinafter referred to as the model) manufactured by M/s, M/s Schlumberger Industries, 1310 Emerald road, Greenwood, SC 29646, United States of America and sold in India by M/s M/s Schlumberger Industries India, 28, Udyog Vihar, Phase-1, Dundhera, Gurgaon-122016, and which is assigned the approval mark IND/13/99/20;



The model covered under this certificate is a digital electronic Coriolis Mass Flow Meter with the sensor of Model M and mass flow transmitter of Model "Datamate 2100". The model covers the flow range of 4.6 kg/minute to 4500 kg/minute. The meter may be used for measurement of liquids with specific gravities of 0.5 to 1.0 liquids falling within this range are refined petroleum products, solvents, aviation fuel, Anhydrous Ammonia, Liquefied Petroleum Gas (LPG) and water.

[F. No. WM-21(129)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

## पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 22 अक्टूबर, 1999

का.आ. 3113.— केंद्रीय सरकार को यह प्रतीत होता है कि लोकहित में ऐसा करना आवश्यक है कि पश्चिमी बंगाल राज्य के हल्दिया से बिहार राज्य के बरौनी तक पेट्रोलियम (क्रूड) के परिवहन के लिए इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जाए।

और केंद्रीय सरकार को यह प्रतीत होता है कि ऐसी पाइपलाइने बिछाए जाने के प्रयोजन के लिए अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में जिसमें उक्त पाइपलाइन बिछाई जानी है, उपयोग के अधिकार का अर्जन करना आवश्यक है।

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति उस तारीख से जिसको, राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर भूमि के नीचे पाइपलाइन बिछाने के संबंध में उनमें उपयोग के अधिकार का अर्जन करने संबंधी लिखित रूप में आक्षेप श्री प्रदीप गांगुली, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, हल्दिया - बरौनी क्रूड पाइपलाइन संवर्धन परियोजना, पोस्ट-खंजनचक, बासुदेवपुर, जिला-मिदनापुर, पश्चिमी बंगाल को कर सकेगा।

अनुसूची

पुलिस थाना : घाटाल		जिला : मिदनापुर		राज्य : पश्चिमी बंगाल	
गाँव	अधिकारिता सूची संख्या	आर.एस.प्लॉट संख्या	क्षेत्र हेक्टेयर	आरे	सेटीआरे
1	2	3	4	5	6
शीलाराजनगर	144	388	0	9	47
		832	0	2	23
		865	0	0	65
		866	0	5	02
		867	0	7	20
		868	0	0	24
		869	0	3	93
		871	0	0	20
		872	0	0	49
		874	0	5	67
		875	0	2	83

876	0	2	75
877	0	0	20
878	0	7	37
883	0	7	45
884	0	1	50
887	0	2	71
888	0	8	30
893	0	1	94
898	0	4	05
900	0	0	20
901	0	3	36
902	0	5	02
932	0	5	58
933	0	2	43
975	0	1	13
976	0	1	86
977	0	1	70
978	0	2	02
979	0	0	73
980	0	0	20
981	0	5	02
984	0	1	05
987	0	7	81
990	0	7	28
991	0	0	40
992	0	2	67
1020	0	3	08
1021	0	5	91
1024	0	5	75
1025	0	5	75
1026	0	0	28
1043	0	4	45
1044	0	1	01
1045	0	2	35
1046	0	0	20
1052	0	8	50
1053	0	3	36
1054	0	4	37
1055	0	6	48

1058	0	0	20
1249	0	3	44
1250	0	2	51
1251	0	3	36
1252	0	3	32
1253	0	3	40
1277	0	0	20
1278	0	7	28
1283	0	5	67
1284	0	2	63
1285	0	3	04
1286	0	2	63
1292	0	6	64
1293	0	4	86
1295	0	3	89
1296	0	0	81
1298	0	0	20
1306	0	4	86
1307	0	5	91
1311	0	7	57
1312	0	1	62
1314	0	8	74
1316	0	3	72
1317	0	0	20
1318	0	6	96
1319	0	1	86
1320	0	8	70
1321	0	5	67
1322	0	3	00
1323	0	3	72
1325	0	4	86
1326	0	1	21
1333	0	1	01
1334	0	0	20
1509	0	3	76
1610	0	0	20
1613	0	5	06
1614	0	2	23
1623	0	5	26

1630	0	0	20
1632	0	1	01
1633	0	2	55
1634	0	2	71
1649	0	6	48
1650	0	1	01
1651	0	6	60
1652	0	2	43
1691	0	0	53
1711	0	1	01
1712	0	5	46
1713	0	4	65
1717	0	7	49
1718	0	4	61
1719	0	0	28
1720	0	3	89
1736	0	2	02
1737	0	0	20
1738	0	9	92
1742	0	0	65
1743	0	0	20
1744	0	2	02
1745	0	2	99
1848	0	5	26
1043 / 2162	0	4	65
1044 / 1997	0	0	20
1250 / 2096	0	2	35
1283 / 2102	0	0	20
1293 / 2103	0	3	36
1293 / 2104	0	4	45
1322 / 2109	0	0	20
1622 / 2131	0	8	50
1633 / 2135	0	3	24
1633 / 2136	0	0	24
1742 / 2161	0	0	20
933 / 2171	0	0	40
205	0	1	46
206	0	1	62
207	0	0	28

211	0	1	21
348	0	9	19
349	0	0	57
350	0	2	23
351	0	7	69
352	0	3	89
361	0	0	20
362	0	4	00
363	0	3	08
365	0	13	92
367	0	0	20
408	0	2	91
409	0	12	26
410	0	6	68
411	0	7	24
417	0	0	69
418	0	6	00
419	0	0	20
422	0	0	20
423	0	0	20
424	0	0	20
465	0	10	40
466	0	0	20
472	0	1	42
474	0	10	52
475	0	0	20
476	0	0	80
477	0	1	42
486	0	0	32
499	0	1	42
500	0	3	44
501	0	5	10
502	0	1	01
507	0	0	20
508	0	10	52
509	0	4	74
510	0	4	45
511	0	11	13
512	0	7	24
698	0	13	11

		699	0	6	07
		702	0	3	24
		773	0	10	04
		774	0	0	20
		795	0	0	80
भाजवनगर	68	1836	0	5	58
		2332	0	6	23
		2333	0	4	05
		2334	0	3	36
		2335	0	4	45
		2338	0	0	20
		2339	0	11	70
		2340	0	3	08
		2342	0	3	89
		2343	0	1	58
		2355	0	6	48
		2356	0	3	24
		2357	0	0	20
		2358	0	0	53
		2359	0	1	94
		2360	0	7	53
		2361	0	19	30
		2364	0	0	20
		2372	0	0	20
		2373	0	3	52
		2374	0	2	59
		2375	0	9	23
		2376	0	0	61
		2377	0	10	85



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2378	0	0	57
2381	0	0	57
2400	0	0	45
2401	0	2	95
2402	0	5	26
2403	0	3	08
2422	0	0	20
2423	0	4	73
2424	0	0	20
2430	0	0	20
2431	0	0	97
2435	0	4	69
2436	0	1	62
2458	0	9	47
2459	0	0	28
2462	0	2	10
2463	0	4	73
2464	0	8	26
2467	0	6	68
2468	0	4	17
2469	0	3	76
2470	0	3	64
2474	0	6	40
2475	0	1	62
2476	0	4	45
2477	0	3	72

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[ सं. आर-31015/13/99-ओ.आर.-I ]

एस. चन्द्रशेखर, अवर सचिव

## MINISTRY OF PETROLIUM AND NATURAL GAS

New Delhi, the 22nd October, 1999

S.O.3113.— Whereas, it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum (crude) from Haldia in the State of West Bengal to Barauni in the State of Bihar, a pipeline should be laid by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying such pipelines, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person, interested in the land described in the said Schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein for the laying of the pipeline under the land to Sri Pradip Govinda Chowdhuri, Competent Authority, Indian Oil Corporation Limited, Augmentation of Haldia-Barauni Crude Pipeline Project, Post - Khanjanchak, Basudevpur, District - Midnapur (West Bengal).

## SCHEDULE

Police Station : Ghatal                      District : Midnapur                      State : West Bengal

Village	Jurisdiction List No.	R.S. Plot No.	Area		
			Hectare	Are	Centiare
1	2	3	4	5	6
Shi larajnagar	144	388	0	9	47
		832	0	2	23
		865	0	0	65
		866	0	5	02
		867	0	7	20

868	0	0	24
869	0	3	93
871	0	0	20
872	0	0	49
874	0	5	67
875	0	2	83
876	0	2	75
877	0	0	20
878	0	7	37
883	0	7	45
884	0	1	50
887	0	2	71
888	0	8	30
893	0	1	94
898	0	4	05
900	0	0	20
901	0	3	36
902	0	5	02
932	0	5	58
933	0	2	43
975	0	1	13
976	0	1	86
977	0	1	70
978	0	2	02
979	0	0	73
980	0	0	20
981	0	5	02
984	0	1	05
987	0	7	81
990	0	7	28
991	0	0	40
992	0	2	67
1020	0	3	08
1021	0	5	91
1024	0	5	75
1025	0	5	75
1026	0	0	28

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1043	0	4	45
1044	0	1	01
1045	0	2	35
1046	0	0	20
1052	0	8	50
1053	0	3	36
1054	0	4	37
1055	0	6	48
1058	0	0	20
1249	0	3	44
1250	0	2	51
1251	0	3	36
1252	0	3	32
1253	0	3	40
1277	0	0	20
1278	0	7	28
1283	0	5	67
1284	0	2	63
1285	0	3	04
1286	0	2	63
1292	0	6	64
1293	0	4	86
1295	0	3	89
1296	0	0	81
1298	0	0	20
1306	0	4	86
1307	0	5	91
1311	0	7	57
1312	0	1	62
1314	0	8	74
1316	0	3	72
1317	0	0	20
1318	0	6	96
1319	0	1	86
1320	0	8	70
1321	0	5	67
1322	0	3	00

1323	0	3	72
1325	0	4	88
1326	0	1	21
1333	0	1	01
1334	0	0	20
1509	0	3	76
1610	0	0	20
1613	0	5	06
1614	0	2	23
1623	0	5	26
1630	0	0	20
1632	0	1	01
1633	0	2	55
1634	0	2	71
1649	0	6	48
1650	0	1	01
1651	0	6	60
1652	0	2	43
1691	0	0	53
1711	0	1	01
1712	0	5	46
1713	0	4	65
1717	0	7	49
1718	0	4	61
1719	0	0	28
1720	0	3	89
1736	0	2	02
1737	0	0	20
1738	0	9	92
1742	0	0	65
1743	0	0	20
1744	0	2	02
1745	0	2	99
1848	0	5	26
1043 / 2162	0	4	65
1044 / 1997	0	0	20
1250 / 2096	0	2	35

		1283 / 2102	0	0	20
		1293 / 2103	0	3	36
		1293 / 2104	0	4	45
		1322 / 2109	0	0	20
		1622 / 2131	0	8	50
		1633 / 2135	0	3	24
		1633 / 2136	0	0	24
		1742 / 2161	0	0	20
		933 / 2171	0	0	40
Bheribalarankundu	67	205	0	1	46
		206	0	1	62
		207	0	0	28
		211	0	1	21
		348	0	9	19
		349	0	0	57
		350	0	2	23
		351	0	7	69
		352	0	3	89
		361	0	0	20
		362	0	4	00
		363	0	3	08
		365	0	13	92
		367	0	0	20
		408	0	2	91
		409	0	12	26
		410	0	6	68
		411	0	7	24
		417	0	0	69
		418	0	6	00
		419	0	0	20
		422	0	0	20
		423	0	0	20
		424	0	0	20
		465	0	10	40
		466	0	0	20
		472	0	1	42
		474	0	10	52

		475	0	0	20
		476	0	0	80
		477	0	1	42
		486	0	0	32
		499	0	1	42
		500	0	3	44
		501	0	5	10
		502	0	1	01
		507	0	0	20
		508	0	10	52
		509	0	4	74
		510	0	4	45
		511	0	11	13
		512	0	7	24
		698	0	13	11
		699	0	6	07
		702	0	3	24
		773	0	10	04
		774	0	0	20
		795	0	0	80
Ajabnagar	68	1836	0	5	58
		2332	0	6	23
		2333	0	4	05
		2334	0	3	36
		2335	0	4	45
		2338	0	0	20
		2339	0	11	70
		2340	0	3	08
		2342	0	3	89
		2343	0	1	58
		2355	0	6	48
		2356	0	3	24
		2357	0	0	20
		2358	0	0	53
		2359	0	1	94
		2360	0	7	53
		2361	0	19	30

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2364	0	0	20
2372	0	0	20
2373	0	3	52
2374	0	2	59
2375	0	9	23
2376	0	0	61
2377	0	10	85
2378	0	0	57
2381	0	0	57
2400	0	0	45
2401	0	2	95
2402	0	5	26
2403	0	3	08
2422	0	0	20
2423	0	4	73
2424	0	0	20
2430	0	0	20
2431	0	0	97
2435	0	4	69
2436	0	1	62
2458	0	9	47
2459	0	0	28
2462	0	2	10
2463	0	4	73
2464	0	8	26
2467	0	8	68
2468	0	4	17
2469	0	3	76
2470	0	3	64
2474	0	6	40
2475	0	1	62
2476	0	4	46
2477	0	3	72

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[F. No. R-31015/13/99-OR-1]  
S. CHANDRASEKHAR, Under Secy.



नई दिल्ली, 22 अक्टूबर, 1999

का.आ. 3114.— केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में वाडिनार से कांडला तक पेट्रोलियम उत्पादों के परिवहन के लिए पेट्रोनेट वी.के. लिमिटेड द्वारा एक पाइपलाइन बिछाई जानी चाहिए।

और केंद्रीय सरकार को ऐसा प्रतीत होता है कि ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित भूमि में जिसमें उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन करना आवश्यक है।

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उनमें उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है।

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, भारत के राजपत्र में यथा प्रकाशित इस अधिसूचना की प्रतियाँ साधारण जनता को उपलब्ध करा दिए जाने की तारीख से इक्कीस दिन के भीतर उनमें उपयोग के अधिकार का अर्जन या भूमि में पाइपलाइन बिछाने में आपत्ति लिखित रूप में श्री जे.के. गढ़वी, सक्षम प्राधिकारी, इंडियन ऑयल कॉर्पोरेशन लिमिटेड, वाडिनार कांडला पाइपलाइन परियोजना, "शिव कृपा" पकज सोसायटी (डेंटल हास्पिटल के पास) जामनगर-361 008 (गुजरात) को कर सकेगा।

### अनुसूची

तहसील : गौधीधाम		जिला : कच्छ		राज्य : गुजरात	
गौव का नाम	सर्वे संख्या	क्षेत्र			
		हेक्टेयर	आरे	सेन्टीआरे	
1	2	3	4	5	
भारापर	164/1	00	01	60	
तहसील : अंजार					
नगा-बलाडीया	196/1	00	01	26	
तहसील : मुंद्रा					
भद्रेसर	733/32	00	08	15	
	649/1	00	07	02	
	733/18	00	14	40	
	450/4	00	05	08	
	444/2	00	00	90	
	444/1	00	35	10	
	449/1	00	04	40	
	391/3	00	06	50	

1	2	3	4	5
हटडी	217/2	00	13	32
	219/2	00	37	80

[सं. आर.-31015/7/98-ओ.आर.-1]  
एस. चन्द्रशेखर, अवर सचिव

New Delhi, the 22nd October, 1999

S.O. 3114.—Whereas, it appears to the Central Government that it is necessary in the public interest that for the transportation of petroleum products from Vadinar to Kandla in the State of Gujarat, a pipeline should be laid by Petronet V.K. Limited;

And Whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to general public, object in writing to the acquisition of the right of user therein or laying of the pipeline under the land to Shri J.K. Gadhvi, Competent Authority, Indian Oil Corporation Limited, Vadinar-Kandla Pipeline, Shiv Krupa, Pankaj Society, (Near Dental Hospital), Jamnagar - 361008 (Gujarat).

#### SCHEDULE

TEHSIL - GANDHIDHAM		DISTRICT - KUTCH		STATE - GUJARAT	
Name of Village	Survey No.	Area			
		Hectare	Are	Centiare	
1	2	3	4	5	
BHARAPAR	164/1	00	01	60	

TEHSIL - ANJAR

NAGAVALADIYA	196/1	00	01	26
TEHSIL - MUNDRA				
BHADRESHWAR	733/32	00	08	15
	649/1	00	07	02
	733/18	00	14	40
	450/4	00	05	08
	444/2	00	00	90
	444/1	00	35	10
	449/1	00	04	40
	391/3	00	06	50
HATADI	217/2	00	13	32
	219/2	00	37	80

[F. No. R-31015/7/98-OR-1]

S. CHANDRASEKHAR, Under Secy.

नई दिल्ली, 28 अक्टूबर, 1999

का.आ. 3115.— केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 73 तारीख 06 जनवरी, 1999 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 21 जनवरी, 1999 को उपलब्ध करा दी गई थी;

उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित किए जाने चाहिए;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लंगमों से रहित, पेट्रोनेट वी.के. लिमिटेड में निहित होगा।

अनुसूची

तहसील : मुद्रा

जिला : कच्छ

राज्य : गुजरात

गाँव का नाम

सर्वे संख्या

क्षेत्र

हेक्टेयर

आरे

सेन्टीआरे

1

2

3

4

5

भद्रेश्वर

518

00

08

70

530/3

00

09

30

530/2

00

04

10

530/1

00

07

80

529/1

00

05

50

529/2

00

04

20

459/3

00

12

00

459/2

00

07

20

391/1

00

06

50

[सं. आर.-31015/13/98-ओ.आर.-1]

के. पी. के. नम्मीशान, अवर सचिव

New Delhi, the 28th October, 1999

S.O. 3115.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S.O. 73 dated 06th day of January, 1999 issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum;

And, whereas, the copies of the said Gazette notification were made available to the public on 21st January, 1999;

And, whereas, the competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And, whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired.

And, further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, in the Petronet V.K. Limited free from all encumbrances.

#### Schedule

Tehsil : Mundra                      District : Kachchh                      State : Gujarat

Name of village	Survey No.	Area		
		Hectare	Are	Centiare
1	2	3	4	5
Bhadreswar	518	00	08	70
	530/3	00	09	30
	530/2	00	04	10
	530/1	00	07	80
	529/1	00	05	50
	529/2	00	04	20
	459/3	00	12	00
	459/2	00	07	20
	391/1	00	06	50

[F. No. R-31015/13/98-OR-1]

K. P. K. NAMBISSAN, Under Secy.

नई दिल्ली, 25 अक्टूबर, 1999

का. आ. 3116.— केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962(1962 का 50) की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय द्वारा भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 13 सितम्बर, 1997 में प्रकाशित अधिसूचना सं.का.आ. 2254 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

उक्त अधिसूचना में ग्राम भुतोडी के सामने स्तंभ सं. 2 में सर्वे सं. '99' और उस से संबंधित प्रविष्टियों का लोप किया जाएगा।

[सं.आर-31015/26/96-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 25th October, 1999

S.O. 3116.— In exercise of the powers conferred by sub-section (1) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas vide S.O.No. 2254, published in the Gazette of India, Part II Section 3, Sub-section (ii) dated 13th September, 1997, namely :-

In the said notifications against Village Bhutodi, in column No. 2, survey No. "99" and the entries relating thereto shall be omitted.

[F. No. R-31015/26/96-OR-II]

HARISH KUMAR, Under Secy.

नई दिल्ली, 25 अक्टूबर, 1999

का. आ. 3117.— केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962(1962 का 50) की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय द्वारा भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 6 सितम्बर, 1997 में प्रकाशित अधिसूचना सं.का.आ. 2165 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:-

उक्त अधिसूचना में ग्राम सालीया के सामने स्तंभ सं. 2 में सर्वे सं. '400/1' और उस से संबंधित प्रविष्टियों का लोप किया जाएगा।

[सं. आर-31015/26/96-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 25th October, 1999

**S.O. 3117.**— In exercise of the powers conferred by sub-section (1) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas vide S.O.No. 2165, published in the Gazette of India, Part II Section 3, Sub-section (ii) dated 6th September, 1997, namely :-

In the said notifications against Village Saliya, in column No. 2, survey No. "400/1" and the entries relating thereto shall be omitted.

[F. No. R-31015/26/96-OR-II]  
HARISH KUMAR, Under Secy.

नई दिल्ली, 25 अक्टूबर, 1999

का. आ. 3118.— केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962(1962 का 50) की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय द्वारा भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 19 जुलाई, 1997 में प्रकाशित अधिसूचना सं.का.आ. 1803 का संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात :-

उक्त अधिसूचना में ग्राम असायदी के सामने स्तंभ सं. 2 में सर्वे सं. '128/2' और उस से संबंधित प्रविष्टियों का लोप किया जाएगा।

[सं. आर-31015/26/96-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 25th October, 1999

**S.O. 3118.**— In exercise of the powers conferred by sub-section (1) of section 6 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum and Natural Gas vide S.O.No. 1803, published in the Gazette of India, Part II Section 3, Sub-section (ii) dated 19th July, 1997, namely :-

In the said notifications against Village Asayadi, in column No. 2, survey No. "128/2" and the entries relating thereto shall be omitted.

[F. No. R-31015/26/96-OR-II]  
HARISH KUMAR, Under Secy

नई दिल्ली, 26 अक्टूबर, 1999

का. आ. 3119.—केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. अ. 1342 तारीख 11 मई, 1999 द्वारा गुजरात राज्य के जिला सूरत में हजीरा से जिला भरुच में दाहेज तक प्राकृतिक गैस के परिवहन के लिए गुजरात स्टेट पेट्रोलियम कार्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकारों के अर्जन के अपने आशय की घोषणा की थी ;

उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 29 जून, 1999 को उपलब्ध करा दी गई थी ;

उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को रिपोर्ट दे दी है ;

और केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किये जाने का विनिश्चय किया है ;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, पाइपलाइन बिछाने के लिए इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है ;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार, इस घोषणा के प्रकाशन की तारीख को केन्द्रीय सरकार में निहित होने की बजाए सभी विल्लगनों से रहित, गुजरात स्टेट पेट्रोलियम कार्पोरेशन लिमिटेड, में निहित होगा ;



## अनुसूची

जि. ला: भरुच

राज्य: गुजरात

तालुके का नाम	गांव का नाम	सर्वेक्षण सं. / खंड सं.	हेक्टर	क्षेत्र	आरे	सेन्टीआरे
(1)	(2)	(3)	(4)	(5)	(6)	(8)
हंसोट	सुनेवकल्ला	632	00	39	40	
		543	00	21	40	
		547	00	23	50	
		548/2	00	04	20	
		548/1	00	17	80	
		549	00	35	10	
		550	00	04	10	
		535	00	15	50	
		533/1	00	08	80	
		533/2	00	12	00	
		532	00	28	00	
		सुनेवकल्ला पर्वत रास्ता	00	03	00	
		286 सरधान कनवा रास्ता	00	09	20	
		278/1	00	11	10	
		अंबोली दीगास रास्ता	00	05	80	
		285	00	19	80	
		287	00	27	50	
		288	00	16	40	
		292	00	06	40	
		290	00	31	80	
		हजारा ओ. एन. ओ. रास्ता	00	04	10	
		300	00	13	40	
		299	00	06	00	
		301	00	22	40	
		305	00	00	20	
		306	00	09	00	
अंकलेश्वर	हजारा	296	00	05	80	
		238	00	05	30	
		239	00	22	80	
		240	00	03	30	
		244	00	17	40	
		242	00	03	80	
		243	00	13	00	
		250	00	20	30	
		249	00	10	20	
		252	00	18	10	
		हजारा ओ. एन. ओ. रास्ता	00	04	10	
		300	00	13	40	
		299	00	06	00	
		301	00	22	40	
		305	00	00	20	
		306	00	09	00	
		296	00	05	80	
		238	00	05	30	
		239	00	22	80	
		240	00	03	30	
		244	00	17	40	
		242	00	03	80	
		243	00	13	00	
		250	00	20	30	
		249	00	10	20	
		252	00	18	10	

(1)	(2)	(3)	(4)	(5)	(6)
		256	00	12	00
		257	00	07	80
		258	00	09	90
		262	00	14	90
		282	00	15	40
		263	00	01	00
		283	00	13	40
		289	00	22	30
		290	00	25	50
	पुनगाम	173/1	00	00	30
	सरफुद्दीन	58	00	36	00
		63	00	11	60
		64	00	13	10
		77	00	05	10
		76	00	11	70
		75	00	05	10
		74	00	11	30
		72	00	08	50
		70	00	23	00
		73	00	00	10
भरुच	देमाल	206/ए	00	08	50
		206/बी	00	04	50
		203	00	15	20
		209/बी	00	02	20
		202	00	36	70
		199	00	06	70
		198	00	20	40
		197	00	08	50
		166	00	59	60
		186	00	18	60
		185	00	40	60
		177 ए	00	13	00
		178	00	24	20
		254पैकी	00	20	40
		254पैकी	00	11	50
		253	00	28	90
		देमाल करमाड रास्ता	00	02	80

(1)	(2)	(3)	(4)	(5)	(6)
		243	00	18	70
		6	00	01	80
		5	00	12	10
		11एबी	00	16	90
		3	00	19	80
		12	00	11	60
		13	00	12	10
		16	00	20	60
		17	00	14	90
		18	00	47	40
		22	00	17	00
	वांसी	करमांड वेसदंडा रास्ता	00	04	50
		761	00	07	00
		762	00	09	50
		763	00	13	60
		764	00	06	50
		765	00	06	30
		766	00	16	50
		767	00	18	20
		768	00	14	00
		769	00	23	60
		770	00	33	20
		774	00	11	90
		775	00	12	80
		785	00	11	20
		786	00	07	50
	भुवा	104	00	03	30
		105	00	01	80
		106	00	00	10
		109	00	08	50
	कुलों	108	00	29	10
		109	00	34	30
		117	00	18	30

(1)	(2)	(3)	(4)	(5)	(6)
	अमदादा	279	00	09	80
		301	00	10	70
		300	00	17	30
		290	00	00	10
		303	00	02	80
		302	00	29	80
		295/बी	00	02	70
		305	00	00	50
		304	00	25	40
		293	00	27	40
		291 पैकी	00	24	30
		291 पैकी	00	27	70
		316	00	21	40
		266	00	00	10
		265	00	10	70
		अमदादा अमलेश्वर रास्ता	00	05	50
		110	00	07	60
		109	00	02	60
		125	00	17	10
		124/बी	00	14	40
		124/ए	00	08	00
		123	00	09	80
		122	00	03	20
		अमलेश्वर नवेथा भाडभुत रास्ता	00	02	60
		99	00	31	10
		100	00	07	00
		98	00	04	50
		87	00	25	00
		74	00	15	30
		86	00	05	40
		79	00	11	20
		84	00	18	90
		80	00	30	20

(1)	(2)	(3)	(4)	(5)	(6)
	एकसाल	184	00	06	20
		185	00	33	40
		183	00	01	10
		190	00	13	80
		191	00	10	60
		192	00	07	10
		193	00	12	80
		195	00	36	00
		197	00	26	50
		180	00	29	20
		162	00	06	30
		163	00	06	40
		164	00	10	00
		166	00	09	30
		167	00	09	40
		169	00	09	70
		170	00	07	10
		171	00	08	90
		158	00	07	80
		157	00	09	60
		156	00	13	80
		18	00	27	50
		17	00	31	80
		16	00	20	70

[ सं. एल.-14014/4/99-जी.पी.-(भाग) ]

सुनील कुमार सिंह, अवसर सचिव

New Delhi, the 26th October 1999

S.O. 3119.— Whereas by a notification of the Government of India in the Ministry of Petroleum and Natural Gas, number S.O. 1342, dated, the 11<sup>th</sup> May, 1999, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the Right of User in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for transport of natural Gas in the State of Gujarat from Hazira in District Surat to Dahej in District Bharuch, by the Gujarat State Petroleum Corporation Limited;

And whereas, copies of the said gazette notification were made available to the public on 29<sup>th</sup> June, 1999;

And whereas, the Competent Authority has under sub-section (1) of section 6 of the said Act submitted report to the Central Government;

And further, whereas, the Central Government has, after considering the said report decided to acquire, the right of user in the lands specified in the Schedule appended to this notification ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the Schedule appended to this notification is hereby acquired for laying the pipelines;

And, further, in exercise of the powers conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, on this date of the publication of this declaration in the Gujarat State Petroleum Corporation Limited., Block No. 15, 2<sup>nd</sup> Floor, Udyog Bhavan, Sector No. 11, Gandhinagar - 382011, Gujarat, free from all encumbrances.

Schedule

District : BHARUCH

State : Gujarat

Name of Taluka	Name of Village	Survey No. /Block No.	Area		
			Hectare	Are	Centare
(1)	(2)	(3)	(4)	(5)	(6)
HANSOT	SUNEVKALLA	632	00	39	40
		543	00	21	40
		547	00	23	50
		548/2	00	04	20
		548/1	00	17	80
		549	00	35	10
		550	00	04	10
		535	00	15	50
		533/1	00	06	80
		533/2	00	12	00
		532	00	28	00
		Sunevkalla Parvat Road	00	03	00
		286 Sarthan Kanwa Road	00	09	20
		278/1	00	11	10
ANKLESVAR	HAJAT	Amboli Digas Road	00	05	80
		285	00	19	80
		287	00	27	50
		288	00	16	40
		292	00	06	40
		290	00	31	60
		Hajat B.M.C. Road	00	04	10
		300	00	13	40
		299	00	06	00
		301	00	22	40
		305	00	00	20
		306	00	09	00
		296	00	05	80
	HARIPURA	238	00	05	30
		239	00	22	60
		240	00	03	30
		244	00	17	40
		242	00	03	80
		243	00	13	00
		250	00	20	30
		249	00	10	20
		252	00	18	10

(1)	(2)	(3)	(4)	(5)	(6)
		256	00	12	00
		257	00	07	80
		258	00	09	90
		262	00	14	90
		282	00	15	40
		263	00	01	00
		283	00	13	40
		289	00	22	30
		290	00	25	50
	PUNGAM	173/1	00	00	30
	SARFUDDIN	58	00	36	00
		63	00	11	60
		64	00	13	10
		77	00	05	10
		76	00	11	70
		75	00	05	10
		74	00	11	30
		72	00	08	50
		70	00	23	00
		73	00	00	10
BHARUCH	DETRAL	208/A	00	08	50
		208/B	00	04	50
		203	00	15	20
		209/B	00	02	20
		202	00	36	70
		199	00	06	70
		198	00	20	40
		197	00	08	50
		166	00	59	60
		186	00	18	60
		185	00	40	60
		177 A	00	13	00
		178	00	24	20
		254P	00	20	40
		254P	00	11	50
		253	00	28	90
		Detral Karmad Road	00	02	80



(1)	(2)	(3)	(4)	(5)	(6)
		243	00	18	70
		6	00	01	80
		5	00	12	10
		11AB	00	16	90
		3	00	19	80
		12	00	11	60
		13	00	12	10
		16	00	20	60
		17	00	14	90
		18	00	47	40
		22	00	17	00
	VANSI	Karnad Vesdada Road	00	04	50
		761	00	07	00
		762	00	09	50
		763	00	13	60
		764	00	06	50
		765	00	06	30
		766	00	16	50
		767	00	18	20
		768	00	14	00
		769	00	23	80
		770	00	33	20
		774	00	11	90
		775	00	12	80
		785	00	11	20
		786	00	07	50
	BHUVA	104	00	03	30
		105	00	01	80
		106	00	00	10
		109	00	08	50
	KURALLA	108	00	29	10
		109	00	34	30
		117	00	18	30
	AMDADA	279	00	09	80
		301	00	10	70
		300	00	17	30
		290	00	00	10

(1)	(2)	(3)	(4)	(5)	(6)
		303	00	02	80
		302	00	29	80
		295/B	00	02	70
		305	00	00	50
		304	00	25	40
		293	00	27	40
		291 Paiki	00	24	30
		291 Paiki	00	27	70
		316	00	21	40
		266	00	00	10
		265	00	10	70
		Amdada Amleshwar Road	00	05	50
		110	00	07	60
		109	00	02	60
		125	00	17	10
		124/B	00	14	40
		124/A	00	08	00
		123	00	09	80
		122	00	03	20
		Amleshwar Navetha Bhadbhut Road	00	02	60
		99	00	31	10
		100	00	07	00
		98	00	04	50
		87	00	25	00
		74	00	15	30
		86	00	05	40
		79	00	11	20
		84	00	18	90
		80	00	30	20
	EKSAL	184	00	06	20
		185	00	33	40
		183	00	01	10
		190	00	13	80
		191	00	10	60
		192	00	07	10
		193	00	12	80
		195	00	36	00

(1)	(2)	(3)	(4)	(5)	(6)
		197	00	26	50
		180	00	29	20
		162	00	06	30
		163	00	06	40
		164	00	10	00
		166	00	09	30
		167	00	09	40
		169	00	09	70
		170	00	07	10
		171	00	09	90
		158	00	07	60
		157	00	09	60
		156	00	13	80
		18	00	27	50
		17	00	31	60
		16	00	20	70

[F. No. L-14014/4/99-GP (Part)]  
S. K. SINGH, Under Secy

### कोयला मंत्रालय

नई दिल्ली, 5 अक्टूबर, 1999

का. आ. 3120.— केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है ;

अतः, अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ।

इस अधिसूचना के अंतर्गत आने वाले रेखांक सं० सी- 1(ई) III / जे जे एम आर / 659-0499 तारीख 7 अप्रैल, 1999 का निरीक्षण वेस्टर्न कोलफील्ड्स लिमिटेड, (राजस्व विभाग) कोल एस्टेट, सिविल लाइन्स, नागपुर- 440 001 (महाराष्ट्र) के कार्यालय में या कलक्टर, चन्द्रपुर (महाराष्ट्र) के कार्यालय में या कोयला नियंत्रक, 1, काउंसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है ।

इस अधिसूचना के अंतर्गत आने वाली भूमि में, हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, घाटों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी / विभागाध्यक्ष (राजस्व), वेस्टर्न कोलफील्ड्स लि०, कोल एस्टेट, सिविल लाइन्स, नागपुर- 440 001 (महाराष्ट्र) को भेजेंगे ।

अनुसूची  
जुना कुनाडा खंड  
माजरी क्षेत्र  
जिला- चन्द्रपुर (महाराष्ट्र)

(रेखांक सं० सी- 1(ई) III /जे जे एम आर / 659-0499 तारीख 7 अप्रैल, 1999 )

क्रम सं०	गांव का नाम	पटवारी सर्किल सं०	तहसील	जिला	क्षेत्र हैक्टर में	टिप्पणियां
1.	कुनाडा	28	भद्रवती	चन्द्रपुर	210-00	भाग
कुल योग					210.00 हैक्टर (लगभग)	या
					518.91 एकड़ (लगभग)	

सीमा वर्णन :-

- क - ख रेखा बिन्दु "क" से आरंभ होती है और वर्धा नदी के उतरी ओर पूर्वी किनारे के साथ-साथ ग्राम कुनाडा से होकर गुजरती है और बिन्दु "ख" पर मिलती है ।
- ख - ग - घ - ड. रेखा ग्राम कुनाडा से होकर गुजरती है और बिन्दु "ड." पर मिलती है ।
- ड. - च - छ रेखा ग्राम कुनाडा से होकर गुजरती है और बिन्दु "छ" पर मिलती है ।
- छ - क रेखा ग्राम कुनाडा से होकर गुजरती है और आरंभिक बिन्दु "क" पर मिलती है ।

[सं. 43015/10/99-पी.आर.आई.डब्ल्यू.]

के. एस. क्रोफा, निदेशक

MINISTRY OF COAL (→)

New Delhi, the 5th October, 1999

S.O. 3120.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein .

The plan bearing No. C-I(E) III JMR/659-0499 dated the 7th April, 1999. of the area covered by this notification can be inspected in the office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra )

or in the office of the Collector, Chandrapur (Maharashtra ) or in the office of the Coal Controller, 1 Council House Street, Calcutta.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of the Department (Revenue), Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur - 440 001 (Maharashtra) within ninety days from the date of publication of this notification .

**SCHEDULE**  
**JUNA KUNADA BLOCK**  
**MAJRI AREA**  
**DISTRICT CHANDRAPUR (MAHARASHTRA)**

(Plan No. C-I(E) III/JJMR/659-0499 dated the 7th April, 1999).

Serial number	Name of village	Patwari circle number	Tahsil	District	Area in hectares	Remarks
1.	Kunada	28	Bhadravati	Chandrapur	210.00	Part
Total area :					210.00 hectares	
						(approximately)
						or
					518.91 acres	
						(approximately)

**Boundary description :-**

- A - B : Line starts from point 'A' and passes through village Kunada along the Northern and Eastern Bank of Wardha River and meets at point 'B'.
- B - C -
- D - E : Line passes through village Kunada and meets at point 'E'.
- E-F-G : Line passes through villages Kunada and meets at point 'G'.
- G - A : Line passes through village Kunada and meets at starting point 'A'.

[F. No. 43015/10/99-PRIW ]  
K. S. KROPHA, Director

नई दिल्ली, 9 अक्टूबर, 1999

आदेश

का. आ. 3121.— कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन निकाली गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का० आ० 2183 तारीख 27 अक्टूबर, 1998 के, भारत के राजपत्र, तारीख 7 नवम्बर, 1998 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में

वर्णित भूमि और भूमि में या उस पर के अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगनों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे ;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि नॉर्दन कोलफील्ड्स लि०, सिंगरौली (जिसे इसमें इसके पश्चात् उक्त कंपनी कहा गया है) ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजामंद है;

अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि इस प्रकार निहित उक्त भूमि और उक्त भूमि में या उस पर के अधिकार, तारीख 7 नवंबर, 1998 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त कंपनी में निहित हो जाएंगे, अर्थात् :-

- (1) उक्त कंपनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिकर, ब्याज, नुकसानी और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी ;
- (2) उक्त कंपनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, उक्त कंपनी वहन करेगी और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत, सभी व्यय भी, उक्त सरकारी कंपनी वहन करेगी,
- (3) उक्त कंपनी, केन्द्रीय सरकार और उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार और या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी,
- (4) उक्त कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी, और
- (5) उक्त कंपनी, ऐसे निदेशों या शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाएं, पालन करेगी ।

[सं. 43015/8/95-एल. एस. डब्ल्यू. पी.आर.आई.डब्ल्यू.]  
के. एस. क्रोफा, निदेशक

New Delhi, the 8th October, 1999

## ORDER

S.O. 3121.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal number S.O.2183, dated the 27<sup>th</sup> October, 1998 issued under sub-section (i) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), published in the Gazette of India dated the

7<sup>th</sup> November 1998 the land and rights in or over the lands as described in the Schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act ;

And whereas the Central Government is satisfied that the Northern Coalfields Limited, Singrauli (hereinafter referred to as the said Company) a Government Company willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the land and rights in or over such lands so vested shall, with effect from the 7<sup>th</sup> November, 1998 instead of continuing to so vest in the Central Government, vest in the said Company, subject to the following terms and conditions, namely :-

- (1) the said Company shall re-imburse the Central Government all payments made in respect of compensation, interest, damages and the like as determined under the provisions of the said Act;
- (2) a tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the said Company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the said Company and, similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights in or over the said lands, so vesting, shall also be borne by the said Company;
- (3) the said Company shall indemnify the Central Government and its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government and or its officials regarding the rights in or over the said lands so vesting;
- (4) the said Company shall have no power to transfer the said lands to any other person without the previous approval of the Central Government; and
- (v) the said Company shall abide by such directions or conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

नई दिल्ली, 20 अक्टूबर, 1999

### शुद्धिपत्र

का.आ. 3122.— भारत के राजपत्र भाग-II, खण्ड -3, उपखण्ड II में तारीख 04 सितम्बर, 1999 के पृष्ठ क्रमांक 5363 से 5366 पर प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना का.आ. 2476 तारीख 18 अगस्त, 1999 में

#### **पृष्ठ क्रमांक 5364 पर**

अनुसूची में

1. “रेखांकित सं. सी -1 ( ई )/3/एच आर/650- 1098 ”  
के स्थान पर  
रेखांक सं. सी -1 ( ई )/III/एच आर/650- 1098 पढ़िये ।
2. गांव का नाम स्तम्भ में  
“ नन्दोरा ” के स्थान पर “ नन्दोरा ” पढ़िये ।  
और जहां कहीं भी यह शब्द प्रयुक्त हुआ हो उसे “ नन्दोरा ” पढ़िये ।

[सं. 43015/7/98-पी.आर.आई.डब्ल्यू.]  
के. एस. क्रोफा, निदेशक

New Delhi, the 20th October, 1999

### CORRIGENDUM

S.O. 3122.— In the notification of the Government of India in the Ministry of Coal number S.O. 2476, dated the 18th August, 1999, published at pages 5363 to 5366 of the Gazette of India, Part-II, Section-3, Sub-section (ii), dated the 4th September, 1999,-

at page 5366

in the boundary description, in sub-heading 'A-8', in line 2, for plot No. "53/4" read "52/4".

[F. No. 43015/7/98-PRIW ]  
K. S. KROPHA , Director



## श्रम मंत्रालय

नई दिल्ली, 30 सितम्बर, 1999

का.आ. 3123:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू इंडिया एश्योरेंस क. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक न्यायाधिकरण, पटना के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-09-99 को प्राप्त हुआ था।

[सं. एल-17012/57/96-आई.आर. (बी-II)]

जी. रॉय, डेस्क अधिकारी

## MINISTRY OF LABOUR

New Delhi, the 30th September, 1999

S.O. 3123.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Patna as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of New India Assurance Co. and their workmen, which was received by the Central Government on 29-9-1999.

[No. L-17012/57/96-IR(B-II)]  
G. ROY, Desk Officer

## ANNEXURE

## BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No. 12(c) of 1997

The Management of New India Assurance Co. Fraser Road, Patna and their workman Sri Janak Ram

For the Management : Sri Shankar Kumar Sharma, Advocate.

For the Workman : Sri Durgesh Prasad Sinha, Advocate.

## PRESENT :

Sri T. L. Verma, Presiding Officer, Industrial Tribunal, Patna.

## AWARD

The 22nd September, 1999

By adjudication order No. L-17012/57/96 IR (B-II) dated 5-9-1997 the Government of India Ministry of Labour, New Delhi referred under clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (hereinafter to be referred as 'the Act') the following dispute between the Management of New India Assurance Co., Patna and their workman Sri Janak Ram for adjudication :—

"Whether the action of the Management of New India Assurance Co. Ltd. in terminating the services of Shri Janak Ram is legal and justified? If not to what relief the said workman is entitled?"

2. After receipt of the adjudication order the reference was registered and parties were directed to appear in this Tribunal. Both parties appeared and written statement on behalf of the workman was filed. Copy of the written statement filed on behalf of the workman served on the Management and the Management filed its written statement. Thereafter in spite of the several opportunities the workman has not appeared until now. On 21-9-99 counsel for the workman appeared and submitted that inspite of several information sent to the workman to appear for giving instruction in the matter he has not turned up and that he has no instruction to proceed in the matter.

3078 GI/99--10.

3. It seems that the workman has lost interest in pursuing his case. In view of this I am left with no option but to hold that no dispute exists between the parties. I accordingly pass no dispute award.

4. This is my award.

T. L. VERMA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 1999

का.आ. 3124:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओरियन्टल इश्योरेंस क. लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-09-99 को प्राप्त हुआ था।

[सं. एल-17012/17/97-आई.आर. (बी-II)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 30th September, 1999

S.O. 3124.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Oriental Insurance Co., Ltd., and their workman, which was received by the Central Government on 29-9-1999.

[No. L-17012/17/97-IR(B-II)]  
G. ROY, Desk Officer

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, the 16th September, 1999

## PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 26/98

## I PARTY

H. G. Keshava Murthy,  
S/o H. C. Gangadharaiah,  
Aged about 36 years  
Clerk  
Oriental Insurance Company Ltd.,  
(now illegally terminated from  
service)  
and residing at Kuchappa Pet  
Doddaballapur-561203

## II PARTY

The management of Oriental  
Insurance Company Limited  
Regional Office,  
No. 44-45, Lee Shopping Complex,  
Residency Road,  
Bangalore-560025.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-17012317/97-IR (B-II) dated 31-3-1998 on the following schedule :—

## SCHEDULE

"Whether the action of the management of Oriental Insurance Co. Ltd., in dismissing Shri H. G. Keshava Murthy from service w.e.f. 6-1-94 is legal and justified? If not, to what relief the said workman is entitled?"

2. The second party is one of the subsidiary company of the General Insurance Corporation of India. The service conditions of the employees are governed by General Insurance (Conduct, Discipline and Appeal) Rules, 1975.

3. The first party was working as a Clerk during 1994. The management discovered that during the period 1-4-91 to 31-12-91 in about 22 instances against cash collections of premium entrusted to him, he had issued money receipts showing as cheque collections and later deposit this cheques pertaining to S.B. Account No. 4885 with M/s. Bank of Maharashtra, Gandhi Nagar Branch, along with other genuine cheque collections. In this way he held the office cash from the day of collection till the cheque is honoured by his Bank and thereby making the cash a temporary misappropriation. He has also falsified the entries in the daily cash balance sheets and cash receipts statements to suppress the above malpractices. The total amount thus temporarily misappropriated during the period August 1991 to December 1991 was to the tune of about Rs. 50,000.

4. He was not keeping the policy stamp register entries upto date. The physical balance on hand as on 1-1-92 was Rs. 3,624.78 only. When he was asked to complete the entries upto 30-12-91 the actual balance in hand stood at Rs. 4950.88. The shortage of physical balance as compared to the book balance arrived at by him amounting to Rs. 1,326.40 which was paid by him to the company. He has permanently misappropriated Rs. 5000 in policy stamp accounts by drawing from bank Rs. 10,000 on 21-8-91 and remitting to RBI only Rs. 5000 on 4-12-91. There are also instances of the cheques issued by him used to be get dishonoured and after receipt of the same directly to him he used to make fresh deposits to cover up the dishonoured of the cheque.

5. To this averments of the charge, first party gave his reply on 7-8-1992 as per Ex. M3. The management have not satisfied with the reply and therefore, a domestic enquiry was conducted by the Dy. Manager appointing him as an Enquiry Officer. The enquiry was proceeded fulfilling all the formalities and ended with a finding of holding that the first party was guilty of the charges levelled against him. Since the misconduct was grave in nature he was dismissed from service.

6. Initially we have decided and validity of domestic enquiry after recording the evidence of the Enquiry Officer and the workman. This issue was held in favour of the management.

7. The first party as it relates to merits of the case has raised the question of discrimination, perversity in the findings and victimisation. These averments are not substantially amplified with necessary details.

8. The second party in their counter-statement have contended that this workman committed a very grave misconduct violating all the norms and since the charges levelled against him was proved substantially in the domestic enquiry, he has not entitled for any relief other than the punishment of dismissal imposed by the second party.

9. We have narrated briefly the facts and circumstances of this case. This workman has not given any satisfactory explanation to defend himself from these charges. He has made a show of showing the reason in his reply statement which is totally unacceptable.

10. The enquiry officer after appreciating all admitted facts spoken to by a witness and supported by documentary evidence has reached the conclusion that this workman has indulged in committing the above misconducts. It is not a case where the punishment is shockingly disproportionate. The workman also not proved that there was colourful exercise of powers by the management in dismissing his services which amounts to victimisation.

11. Having regard to these facts and circumstances, the following order is made:—

## ORDER

The second party are justified in dismissing the services of this workman for the proved misconduct. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 16-9-99).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 1999

का.आ. 3125—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिडिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-09-99 प्राप्त हुआ था।

[सं. एल-12012/364/91-आई. आर. (बी-11)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 30th September, 1999

S.O. 3125.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 29-09-99.

[No. L-12012/364/91-IR(B-ID)]

G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 22nd September, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 22/92

## I PARTY

Sri K. S. Pramod Kumar.  
No. 347, 16th A Main,  
4th, "T" Block, Jayanagar,  
Bangalore-11.

## II PARTY

The General Manager (PS),  
Syndicate Bank.  
Head Office,  
Manipal.

## AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of the Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L 12012/364/91-IR (B-2) for adjudication on the following schedule,

## SCHEDULE

"Whether the management of Syndicate Bank is justified in dismissing Sh. K. Pramod Kumar Ex-Clerk of the Bank. If not, what relief he is entitled to?"

2. The I party, who was working as a Clerk was served with a Charge Sheet Ex. M-1 dated 8-8-1988. The allegation of Charge in brief are:

"that when has been working as Clerk at K. R. Puram branch, Bangalore during the period between June 1984 and August 1986, the following incidents took place,

(a) that on 2-6-84 he has falsely enhanced the credit balance in his SB account No. 12 by Rs. 1000.

(b) that on 14-12-84 he got sanctioned a loan of Rs. 5000 in the name of Sri Harsha Bhatt, his Brother-in-Law.

(c) that on 28-8-1986 he has received a sum of Rs. 1,100 from the branch against token No. 15."

3. In the charge sheet a detailed facts and reasons are given to justify that the acts committed by this workman are gross misconduct which are prejudicial to the interest of the Bank vide Clause No. 19.5(j) of the Bi-partite Settlement.

4. Unfortunately this workman has not given any reply to this charge sheet. The Management to prove the above misconduct appoint an Enquiry Officer. The II party inspite of Hercules task, are not able to secure the presence of the I party in the Domestic Enquiry. Therefore, the Enquiry Officer on the evidence placed by the management consisting of 3 witnesses and the relevant documents came to the conclusion that the I party was found guilty of the misconducts alleged against him. The Disciplinary Authority accepted the report of the Enquiry Officer. The Disciplinary Authority and the Appellate Authority have concurred the reasoning found in the report of the Enquiry Officer and the I party was dismissed from service.

5. We have framed a preliminary issue to give a finding on the validity of Domestic Enquiry. It is to be noted at this juncture that this workman has not appeared in the Domestic Enquiry and therefore there is no cross-examination of management witnesses. After giving opportunity to both parties this Tribunal passed a considered order on the validity of Domestic Enquiry vide Order dated 19-5-1999, in favour of the management. This Tribunal has exhaustively discussed the events that took place during the course of the Domestic Enquiry before giving a finding.

6. If we analyse this dispute on the undisputed materials discussed so far, it is evident that the case of the Management is required to be accepted. Though several contentions are raised by the workman in support of his defence, none of the contentions require examination except the fact that the allegation with regard to delay in issuing a Charge Sheet.

7. Both sides have filed their written arguments.

8. Before examining the materials shown in the written arguments we have to decide ourselves the jurisdiction of this Tribunal to go into the merits of the case. Admittedly the charge and the manner in which this charges are committed is exhaustively shown in Ex. M-1. Since the I party did not chose the file any reply to the charge sheet the conclusion is that whatever stated in the Charge Sheet are accepted. Added to this the I party conveniently remained absent in the Domestic Enquiry and therefore whatever stated by the witness in support of the management required to be accepted under law. Therefore the report of the Enquiry Officer cannot be disturbed as the management proved that they have conducted the Domestic Enquiry in all fairness and the report of the Enquiry Officer is supported by acceptable materials.

9. As I said earlier the sole contention requires examination is delay of 4 years in issuing the Charge Sheet. The learned Advocate relied on a decision of Calcutta High Court in Subhash Chandra Basu v/s Bank of Baroda and others 1992(1) Bank CLR 450.

10. In the above case the petitioner was working as a Senior Manager at the relevant time. The Management having found that several misconduct were committed during 1969 till 1972, have issued a Charge Sheet after 5 years. The Petitioner contended before the High Court that the Charge was framed on the basis of Star and Technical matters and there being delay of more than 5 years in initiating the proceedings after receipt of the reply to show cause notice filed by the Petitioner. A learned Single Judge took this aspect of the matter and quashed the proceedings.

11. In the present case the allegation made against the I party is to a misconduct covering 1984 to 1986. The Charge Sheet was issued on 8-8-88. The charges framed was on the basis of subsequent discoveries found the accounts and therefore a matter of 2 years cannot be said to be an unreasonable delay. We also cannot say that the charges are stale. The management commenced the enquiry immediately after the charge was served to the I party. Therefore there is no question of any stale in conducting the proceedings.

12. The I party shall blame himself in not participating in the Domestic Enquiry to make a case of innocence. Infact he has deliberately remained absent though number of notices are issued to him.

13. Having regard to these facts and circumstances the following order is made.

## ORDER

14. The II party are justified in dismissing this workman from the service on the proved misconduct alleged in the Charge Sheet. The reference is answered accordingly.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 22nd September, 1999.)

JUSTICE R. RAMAKRISHNA Presiding Officer

नई दिल्ली, 30 सितम्बर, 1999

का.आ. 3126:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केन्द्र बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार अधीकरण, बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-09-99 को प्राप्त हुआ था।

[सं. एल-12012/313/97-आई.आर. (बी-II)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 30th September, 1999

S.O. 3126.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 29-09-99.

[No. L-12012/313/97-IR(B-II)]  
G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 22nd September, 1999

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C R. No 23/98

## I PARTY

Sri Nagaraju,  
S/o Ayappa,  
C/o G. G. Chandranna,  
(Bus Stand Canton),  
Kompli-583132,  
Hosapet Taluk,  
Bellary District.

## II Party

The General Manager (IR),  
Canara Bank,  
J. C. Road,  
Bangalore-1.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/313/97-IR(B-II) dated 10-3-1998 for adjudication on the following schedule.

## SCHEDULE

"Whether the action of the management of Canara Bank in dismissing the services of Sh. Nagaraju, Part-time Employee w.e.f. 13-12-1989 is legal and justified? If not, to what relief the said workman is entitled?"

2. The I party was dismissed from service, after conducting a Domestic Enquiry, w.e.f. 13-12-89. At the time of dismissal the I party was working as a Part-time Employee at Karatagi Branch of Raichur district.

3. Though the I party was not an Award Staff, the II party issued a charge sheet dated 10-7-89 for misappropriation of funds of the Customers which is a misconduct under Chapter XI, regulation 3(j) and (m) of Canara Bank Service Code. The Charges briefly is as follows :

"Smt. Rajamma, W/o Sri Titesab, was sanctioned a DPN Loan of Rs. 7000 on 1-3-1989 for Bangle business (DPN RT 8/89) by our Karatagi branch. Since there were no repayments, the Manager contacted Sri Titesab and on 13-6-1989 Sri Titesab produced 3 counterfoils dated 28-3-89, 3-5-89 & 1-6-89 for Rs. 400 each. In his letter dated 13-6-89, he stated that on the above dates, i.e., 28-3-89, 3-5-89 & 1-6-89, he handed over Rs. 400 each to you for crediting to his wife's loan a/c. You have, on the above three days, issued 3 challan counterfoils by affixing Branch 'Transfer Seal' to the party for having received the amount of Rs. 400 each on 28-3-89, 3-5-89 & 1-6-89 to the credit of DPN RT 8/89 of 'Rajamma'. But the above amounts received were not accounted for in the books of the Bank."

4. The I party in his explanation dated 29-7-89, Ex. M-3, has accepted the misappropriation and gave some family reasons and prayed for lenient view. However, the management conducted a Domestic Enquiry and examined 2 witnesses including complainant Sri Titesab. This workman admitted his guilt unconditionally before the Enquiry Officer. He has also not cross-examined the Management witnesses in the Domestic Enquiry.

5. The Disciplinary Authority accepted the report of the Enquiry Officer which was made both on plea of guilt and also on the basis of Oral and Documentary evidence placed in the Domestic Enquiry. Taking into consideration that the I party even in the stage of working as a Part-time Employee has committed such a grave misconduct, he has been dismissed from service.

6. This Tribunal has framed a Preliminary issue to give a finding on the validity of Domestic Enquiry due to the contention raised by the I party in his Claim Statement. After recording the evidence of the Enquiry Officer and this Workman, we held the validity of Domestic Enquiry in favour of the Management. Thereafter the learned Advocates are directed to submit their arguments on the merits of the case.

7. The records prima facie discloses that the allegations of charges against this workman was proved not only on the acceptance of the I party but also by independent evidence. The learned advocate for the I party has not disputed the admitted facts leading to the dismissal of this workman. The contention of the learned advocate is to extend the benevolent provisions contained in Section 11A of the Act.

8. Against this submission the learned advocate for the II party has submitted that the gravity of the offence committed by this workman does not merit any lenient view and therefore the finding of the Enquiry Officer is conclusive and the punishment imposed by Disciplinary Authority was legal. In support of this contention the learned Advocate relied on the decisions :

1. D. Padmanabudu v/s Bank of India, 1995 (1) LLJ 1076.
2. Union Bank of India v/s Vishwa Mohan, AIR 1998 SC 2311.
3. Municipal Committee Bhahadurgad V/s. Kishen Behan, 1996 LAB I.C. 1056.
4. State of Karnataka & Others v/s H. Nagaraja, JT 1998 (9) SC 37.

9. The gravity of the misconduct does not permit to invoke the benevolent provisions contained under Section 11A. In the result I make the following Order.

## ORDER

10. The II party are justified in dismissing the service of this workman on a proved misconduct. The reference is answered accordingly.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 22nd September, 1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 1999

का.आ. 3127:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिन्डिकेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/बैंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-09-99 प्राप्त हुआ था।

[सं. एल-12012/80/96-आई.आर. (बी-II)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 30th September, 1999

S.O. 3127.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 29-9-99.

[No. L-12012/80/96-IR(B-II)]

G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, 21-9-1999

## PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 221/97

## I PARTY

The General Secretary,  
Syndicate Bank Staff Association,  
Anuradha Building,  
Near Ananda Rao Circle,  
Subedar Chitra,  
Ram Road, Bangalore.

## II PARTY

The Dy. General Manager (IR),  
Syndicate Bank, Zonal Office,  
Gandhi Nagar,  
Bangalore.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/80/96/IR(E-II) dated 21-4-97 on the following schedule:—

## SCHEDULE

"Whether the action of the management of Syndicate Bank in dismissing the services of Smt. K. Mohini Rangaraj w.e.f. 6-5-93 is legal and justified? If not, to what relief the said workman is entitled?"

2. The concerned workman is Smt. K. Mohini Rangaraj hereinafter referred to as Smt. Mohini. The Jt. Secretary of Syndicate Bank Staff Association espoused the cause of this lady. This lady was dismissed from service w.e.f. 6-5-93, after conducting a domestic enquiry on the allegation of charge made in Ex. M1 dated 17-5-1991. For proper appreciation the content of the charge sheet is reproduced below:—

"that you have been working as Stenographer at our Davangere Branch, since 25-1-82 and that while functioning as such, the following incident took place at the branch:—

That on 3-12-86, Smt. Sudhadevi K. with her address as knitting, C/o Thiippanna, 672, 8th. Main, Santhosh Kuteera, P. J. Extension, Davangere, opened a SB A/c. No. 52290 at the branch. That, the account was duly introduced by you.

That Smt. K. Sudhadevi was enjoying a credit facility at the branch under OSL/SEPUP 114/7 for Rs. 4800 against the hypothecation of knitting machine/woollen balls worth Rs. 6,000 and repayable @ Rs. 146 p.m. from December 1987.

That on or about 4-3-89, the said Smt. K. Sudhadevi tendered to you a sum of Rs. 400 for being credited to her loan account at the branch and that in response thereto, you issued a counterfoil dated 4-3-89 evidencing the credit of Rs. 400 given by her towards her loan account.

That, on 18-3-89, when she enquired with the officials of the branch as to the amount remitted by her for credit to her loan account it was found that the amount of Rs. 400 was not credited to her loan account.

3. This lady gave a reply to this charge sheet as per Ex. M3 dated 6-6-91. On a verification of Ex. M3 it is revealed that the management have sent a letter dated 18-9-89 making various allegations made by one Sudha Devi to which she had given her explanation by a letter dated 16-10-89. The management conveniently withheld their letter and the reply of this lady, for the best reason known to them. Therefore,

Ex. M3 is not an explanation as contended by the second party in the list of documents filed before this tribunal on 8-3-99. In this letter this lady has asked some clarification/information regarding her explanation letter dated 16-10-89. The information sought was to furnish the opinion of the experts on her hand writing and copy thereon. She has also asked what action was taken against the then Manager, K. P. Guruswamy on the basis of the allegations made by her in the explanation dated 16-10-89. She has also contended that the said Manager granted a loan of Rs. 10,000 to one Ravagina, brother of Sudhadevi for a fictitious purpose. She further asked whether the three girls Vijaya/akshmi, Vijay and Shashikala has sent any communication to the management after her notice dated 17-11-89 issued to them. The next contention was whether the office has made any investigation or enquiry with the concerned police on a complaint given against Sudhadevi dated 7-7-89, as it regards to a notice dated 17-11-89 issued to the 3 girls referred and also with one Smt. Chandra Prabha.

4. Therefore, it can be conveniently held Ex. M3 is not an explanation.

5. However, the management conducted an enquiry by appointing one Shri Venkatraman an official of the bank. The evidence recorded to prove the validity of Domestic Enquiry and the pleadings discloses that there was rubbing between the defence representative and this lady in one side and the enquiry officer and the presenting officer on the other side. Due to lack of consensus-ad-ideam the defence representative and this lady walked out the enquiry. The management conveniently examined 9 witnesses including the complainant Sudha Devi.

6. There was great deal of correspondence between this lady with the management. She was insisting to change the Enquiry Officer as he was biased and she will not have a fair enquiry. Of course the Dy. General Manager vide his letter dated 28-5-92 Ex. W1 has accepted to change the Enquiry Officer and thereby appointed Shri Harihar Rao, Assistant Personal Manager to continue the enquiry from the stage it is left by Shri Venkatraman.

7. Thereafter this lady along with DR cross-examined the management witnesses to the extend their cross examination was relevant but the management have failed to bring the complainant Smt. Sudha Devi and all the efforts made by this lady to get her for cross examination was unsuccessful. Thereafter respective written brief was filed and the enquiry officer gave his finding against this lady.

8. We have not adverted to the pleadings of the parties with a purpose that the case made out by the second party is a simple case making allegation against this lady having misused Rs. 400 given by the complainant Sudha Devi for crediting to her account.

9. We have framed a preliminary issue, whatever its worth, to give a finding on the validity of Domestic Enquiry. After recording the evidence of the second enquiry officer and the concerned workman we gave a finding in favour of the management. It is necessary to state that the finding on the validity is on a mere procedural aspect of the matter and not on the merits of the whole case. Though it is contended by this lady that the reports suffers from perversity for non examination of the complainant, she was informed to agitate this aspect of the matter on the merits of the case.

10. Indeed we have failed to understand how the second party have not made available the alleged documents marked in the domestic enquiry. When we wanted to examine the alleged fabricated challan said to have given by this lady to said Sudha Devi we have failed in our effort.

11. It is admitted of no doubt that the enquiry officer in the absence of the evidence of Sudha Devi in the cross examination, has relied on the evidence given by her in the Examination Chief. This is totally fallacious. A document shall be proved only on the basis of an evidence given under oath which shall be tested by cross examination. If this lady was not produced for cross examination, the conclusion is that her evidence in the Examination Chief cannot be made use for any purpose. The management cannot harp continuously that this lady walked out of the enquiry and therefore she lost her chance. This is preposterous. The enquiry officer committed a grave error in relying on their evidence

which is legally not entitled to make use of. Therefore, it is nothing but a perverse order.

12. This lady has issued a legal notice to 3 co-employees whose names are referred above as they have colluded with Sudha Devi to make out a false case against her. Though she has requested to summon those girls in the enquiry they have not been summoned but the management wanted to escape their responsibility by taking shelter on the plea that they are not the management witnesses. If we examine these circumstances objectively there is no doubt that the management have conducted this enquiry with bias only to shield another manager against whom this lady has given complaint of misusing his official position and also indulging in making move to outrage the modesty of this lady by molesting her. At this stage it is convenient to understand what is bias. As to the test of likelihood of bias what is relevant is reasonableness of the apprehension of bias in the minds of the party is sufficient. Proper approach is to look to the mind of the party who appears before the judge to find out bias or likelihood of bias. This has been proved without any doubt when the management tried to shield previous manager, Guruprasad by making a false case against this lady on a frivolous complaint of a lady with bad character background.

13. I have carefully gone through the evidence of handwriting experts in his examination chief and cross examination. The defence representative has cross examined this witness exhaustively. This witness made to say that a small 'sign' found in a document cannot be the handwriting of the same person against whom an allegation is made. It is also suggested to improve that admitted handwriting cannot be made use of a disputed handwriting where a small sign is to be deciphered.

14. The law is well settled that the evidence of a handwriting expert is not conclusive. It should have corroboration by independent evidence. In fact we are not able to find that exhibit M9 on the basis of which the management have issued the charge sheet. Therefore, the evidence of handwriting expert in isolation cannot be accepted to prove the guilty of the workman.

15. In *Ranjit Thakur Vs. Union of India and others* reported in 1988 1 LLJ 257. His Lordship Justice M. N. Venkatachaliah, as he then was, suggested the tests of likelihood of bias by elaborately discussing the facts of that case and the celebrated judgements of British Courts and Courts of American were consised. I am conveniently extracting the view of the courts.

Lord Esher in *Allinson Vs. General Council of Medical Education and Registration* (1894) 1 O. B. 750 at 758 said:

"The question is not, whether in fact he was or was not biased. The court cannot inquire into that ... In the administration of Justice, whether by a recognised legal court or by persons who, although not a legal public court, are acting in a similar capacity, public policy requires that, in order that there should be no doubt about the purity of administration any person who is to take part in it should not be in such a position that he might be suspected of being biased."

In *Metropolitan Properties Co. (F.G.C.) Ltd. vs. Lannon* (1969) 1 Q B. 577, at 599, Lord Denning M. R. observed:

"In considering whether there was a real likelihood of bias, the court does not look at the mind of the justice himself or at the mind of the chairman of the tribunal, or whoever it may be, who sit in a judicial capacity. It does not look to see if there was a real likelihood that he would, or did, in fact favour one side at the expense of the other. The court looks at the impression which would be given to other people. Even if he was as impartial as could be nevertheless if right minded persons would see that in the circumstances there was a real likelihood of bias on his part, then he should not sit....."

*Frankfurter J in Public Utilities Commission of the District of Columbia Vs. Pollack* (343 US 451 at 466) said:

"The judicial process demands that a judge moves within the frame work of relevant legal rules and the court covenanted modes of thought for ascertaining them. He must think dispassionately and submerge private feeling on every aspect of a case. There is a good deal of shallow talk that the judicial robe does not change the man within it. It does. The fact is that on the whole judges do lay aside private views in discharging their judicial functions. This is achieved through training, professional habits, self discipline and that fortunate alchemy by which men are loyal to the obligation with which they are entrusted. But it is also true that reason cannot control the subconscious influence of feelings of which it is unaware. When there is ground for believing that such unconscious feelings may operate in the ultimate judgement or may not unfairly lead others to believe they are operating, judges excuse themselves. They do not sit in judgement....."

Referring to the proper test, *Ackner LJ in Regina Vs. Liverpool City Justice, Ex-Parte Topping* [1983(1)WLW 119] said:

"Assuming therefore, that the justice had applied the test advised by Mr. Pearson. Do I feel prejudiced then they would have applied the wrong principle and the same result, namely, the quashing of the conviction would follow."

16. One of the factor which requires a serious note is that the offence alleged to have been taken place on 4-3-1989. This lady with all seriousness gave a reply to this unfounded allegation but the management has conveniently withheld the letter and the reply given by this lady and suddenly they issued a charge sheet dated 17-5-1991. They have not explained as to what happened between these 2 years. When according to the management it is a simple case of misusing the amounts of a lady who was enjoying the credit facilities due to patronage of previous manager.

17. This lady was admittedly working as Stenographer in the bank. There is no evidence that she was empowered to receive the money from others and issue a so-called counter file challan with her initial. The Disciplinary Authority failed to take note of her unblemished previous services before passing an order of dismissal on the unproved charge.

18. Time and again the courts are bringing this anomaly in decision taking by the competent authorities in punishing the workman. Though there are catena of decisions on this point, I refer only two of them in support of this point:—

The Madras High Court in *Mahalakshmi Textile Mills Vs. Labour Court, Madurai, and Ors.* (1963) 2 LLJ 58 stated thus:

"This view of the learned judge appears, if we may say so with respect, to be perfectly justified in terms of standing order 19. This order specifically provides that, in awarding punishment for misconduct:

"The management shall take into account the gravity of the misconduct, the previous record if any of the workman, and any other extenuating or aggravating circumstances that may exist.

"Admittedly, in the order of dismissal, the previous record and the gravity of the misconduct, etc. which are all relevant factors, were not taken into account. Section 19 is mandatory in its terms and there is no option or choice left with the management to neglect these relevant factors."

This view was quoted approvingly by the Andhra Bank High Court in *B. Subbiah V. Andhra Handloom Weavers Co.-Op. Society Ltd.* (1978) 1 LLJ 37 and stated as follows:

"The question which has, therefore, been argued before us is: What is the effect of the failure on the part of the society to take into account the petitioner's clean past record? In this connection he has invited our attention to a Bench decision of this court recorded in W.P. No. 4234 of 1973 decided on 1st September, 1975. In that decision an extract from the decision of the Madras High Court in

Borasil Glass Works Ltd. V. M. G. Chitale and Richard M. D. Souza, (1974 II LLJ 184), has been quoted. The principle which the Madras High Court has laid down in the aforesaid decision is that the punishing authority must apply its mind to the factors specified in the standing order 16(c) that is to say take into consideration the past conduct while deciding what punishment should be awarded to an erring employee. The factor which has been prescribed by Standing Order 16(c) under the Industrial Disputes Act is also one of the factors prescribed by sub-rule (3) of Rule 20 of the Andhra Pradesh Shops and Establishments Rule. The principle laid down in that decision has been approved by a Bench of this court in W.P. No. 4234 of 1975 to which we have already referred. The next decision to which he has invited our attention is The Management of Mahalakshmi Textile Mills V. Labour Court (1963-II LLJ 58) AIR 1964 Mad. 51. It was also a case under the Industrial Disputes Act. The standing order laid down that while awarding punishment to a workman or misconduct, the management shall take into account the gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances; that may exist. The language of the standing order relied upon in that case is in parimateria with the language used in sub-rule (3) of Rule 20 of the Andhra Pradesh Shops and Establishments Rules with which we are concerned in this case. A bench of the Madras High Court has laid down that having regard to the mandatory nature of the standing order there was no option left to the management and that, therefore, it could not ignore the relevant factors. They have further observed that if these factors were not taken into consideration by the management while passing an order of dismissal of a workman such an order could not be sustained."

19. Looking from any angle of the case the management have not justified in dismissing the services of this lady and therefore, the following order is inevitable.

#### ORDER

The order of dismissal against this workman is hereby set aside. The second party are directed to reinstate this lady to the position she was held on the date of her dismissal. She is eligible for continuity of service and other monetary benefits which she would have benefitted if she continued in her work in the absence of this dismissal. She is also entitled for full back wages from the date of her suspension till her reinstatement. The payment of back wages are subject to deduction of subsistence allowance if any.

(Dictated to the PA, transcribed by her, corrected and signed by me on 21-9-99.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 30 सितम्बर, 1999

का.प्र. 3128.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कारपोरेशन बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-9-99 को प्राप्त हुआ था।

[सं. एल-12012/52/92-आई.आर. (बी-II)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 30th September, 1999

S.O. 3128.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the

Central Government Industrial Tribunal Bangalore, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Corporation Bank and their workman, which was received by the Central Government on 29-9-99.

[No. L-12012/52/92-IR(B-II)]

G. ROY, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, BANGALORE

Dated : 21st September, 1999

#### PRESENT :

JUSTICE R. RAMAKRISHNA, Presiding Officer

C.R. NO. 56/92

#### I PARTY

The Vice President,  
Corporation Bank Employees Union,  
D-7, III floor, Jasmine Park,  
Near Vinaya Clinic,  
Karangalpady,  
Mangalore-575 003.

#### II PARTY

The Chief Manager,  
Corporation Bank,  
H.R.D.,  
Head Office,  
Mangalore-575 001.

#### AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/52/92-IR(B-II) dated 3-7-1992 for adjudication on the following schedule.

#### SCHEDULE

"Whether the action of the management of Corporation Bank in dismissing Sh. S. K. Savalgi from the services of the Bank, is justified? If not, to what relief is the workman entitled to?"

2. The I-Party joined the services of the II Party bank as a Peon w.e.f. 11-6-81. He has worked in that capacity till he has been relieved on 13-11-89 from the said branch as he was promoted as a Clerk and posted to the Haliyal branch. When he was at Haliyal branch the management issued Ex. W-2 dated 28-6-89 by making the following allegations :

"While he was working as a Peon at Hubli branch he was entrusted with 2 cheques drawn at Azad Urban Co-operative Bank Limited Hubli for loan collection. One Cheque drawn by Smt. M. N. Godvala was for Rs. 7,335 and another cheque drawn

by Sri A. A. Naik was for Rs. 300. Though he was encashed these cheques on the same day. He has failed to remit the said amount on that day. On demand from the branch he has paid a sum of Rs. 4,400 on 10-4-89 and Rs. 3,235 on 11-4-89. This act of the workman was treated as a misconduct under Clause 19.5(j) of the Bipartite Settlement. The conduct of the workman also treated as temporary misappropriation. He was kept under suspension on the very same day."

3. This workman replied to the allegation of charges on 26-7-89. He has accepted the fact of entrustment of these 2 cheques and also receiving Rs. 7,635 on the very same day. His further contention was that while coming to the office he lost Rs. 1,600 as he had to visit other places on official work. Since he was not able to detect how he lost the amount, out of fear he did not report the matter to office and wanted to deposit the entire amount as quickly as possible. He tried to borrow some money to pay the amount, but did not succeed till 10-4-89. The entire amount was paid back by 11-4-89. He regretted this inconvenience and requested the management to take a lenient view in the matter.

4. However, the II party conducted a Domestic Enquiry. The workman participated in the said enquiry. On the findings of the Enquiry Officer that the allegation of charges are proved the Disciplinary Authority by accepting the report has dismissed this workman from service w.e.f 15-1-90. The appeal filed by the workman was rejected by the Appellate Authority.

5. By reading the allegation of Charge and the reply filed by this workman there is no necessity to traverse the pleadings of the parties. The workman has fully participated in the Domestic Enquiry and has made best efforts to get himself exonerated, from the charges. But, the bank has taken this as a grave misconduct and thereby dismissed this workman.

6. Though this reference was received on 3-7-92 a finding on the validity of Domestic Enquiry was given on 11-8-99. Nearly 6 years has been elapsed in between. The evidence of workman was recorded on 26-10-94, he was cross-examined on 9-8-99. Of course with great persuasion the Enquiry Officer in the enquiry was examined as MW1 on 8-3-99. We gave a finding on the validity of Domestic Enquiry, in favour of management. Though we are conscious that the orders on the validity of Domestic Enquiry was given on the admitted facts and materials we also conscious that an adverse finding on the validity of Domestic Enquiry will kill the workman further as he has to wait decades for the management to secure the witness and examine them to prove the misconduct by independent evidence.

7. We do not know whether we have to blame ourselves or the system. If a finding was given on the validity of Domestic Enquiry as contemplated under law within a short period there would not be any difficulty to give a finding on the merit of the

case and thereby deciding the fate of this workman as to whether he is eligible to resume his work as a bank employee or to select some other avocation if it is decided that his dismissal was in accordance with law. What one can do after a lapse of decades to give a finding against the workman, who by that time lost his age, energy, and enthusiasm in life.

8. Proved facts and admitted facts demonstrates that the encashed amount was in the custody of this workman from 4-4-89 to 11-4-89. He gave some explanation which we cannot say, whether the statement was correct or wrong. But dragging this proceedings in these 10 years, we are definitely wrong.

9. In Padmanabudu and Bank of India and another, 1995(I) LLJ 1076, A division of bench presided by the Hon'ble Chief Justice of Karnataka High Court, held that the money misappropriated and later repaid to the customers does not absolve the workman from the gravity of the misconduct and therefore the punishment of dismissal is a correct punishment. The facts are that Accounts Clerk misappropriates the money of customer which is given to him to deposit in his account.

10. In Union Bank of India v/s Vishwa Mohan, AIR 1998 SC 2311, it was held that acts of corruption, embezzlement, misappropriation and other acts amounts to unbecoming of a Bank Officer.

11. We have number of judgements where Clerks and Officers commits the offences knowing the consequences. There is no quarrel over this matter.

12. The law is also well settled that a workman if involved in misappropriation of bank accounts and was dismissed on that account that cannot be called as Punishment shockingly disproportionate.

13. But when a workman who is an Ordinary Peon who has been alleged to have committed a grave misconduct of temporary misappropriation and has undergone the agony for a long duration and thereafter he had his agony continued before the conciliatory authorities and after reference, he once again to undergo the same agony under law subverted by the advocates, and the Presiding Officers in taking leisure of the things, what remedy should be extended to a workman who is a Victim in this enterprise. Should we say that we cannot invoke the benevolent provision of Section 11A to a workman who is fighting this litigation from last 11 years, without there being any result which was either Negative or affirmative to reach a finality?

14. My answer to this question is that in these circumstances the benevolent provision of section 11A can be extended but with care and caution. By extending this provision the management shall not be penalised to have monitory burden. Infact, it is a rule of prudence that whatever the punishment is imposed the gravity of the offence should be taken objectively. A case of notorious embezzler cannot be narrated even by mistake to this nature of case while awarding punishment. If such yardsticks are not examined then the object of Industrial Law will become a mockery of Justice. After all the people comes



before the courts with faith that the courts will examine the case of each person on its own merits and not like a Banking institutions which is anxious to dismiss the services of every workman irrespective of the fact. Whether the gravity of the misconduct is legally acceptable or not.

15. In view of the discussion made above I am of the firm view that Section 11A can be conveniently applied to the fact and circumstances of this case. The term that the punishment is shockingly disproportionate is to be understood by examining the entire facts and circumstances of a case. The courts should not view even a small offence is punishable with an order of dismissal. The law can be conveniently adopted by differently from person to person with rank and file.

16. Here is a workman who on his merits promoted as a Clerk after a short service of 5 years. He was charged for an offence with considerable length of time and his bread was snatched away permanently. In view of these circumstances I am not persuaded to accept the matter of punishment as a precedent in each case irrespective of the fact the clearing differences we can find.

17. In the result I make the following order.

#### ORDER

18. The II party are not justified in dismissing the service of this workman. In substitution to the Order of dismissal, the II party is directed to reinstate this workman to the post he was holding when he was kept under suspension. There shall be continuity of service but the I party is not entitled for any Back-wages. The reference is answered accordingly.

(Dictated to the LDC, transcribed by him corrected and signed by me on 21st September, 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3129:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक आफ मैसूर के प्रबन्धन के सम्बन्धित नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट की प्रकाशित करती है, जो केन्द्रीय सरकार को 04-10-1999 को प्राप्त हुआ था।

[संख्या एल-12012/187/97-आई.आर. (बी-1)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 4th October, 1999

S.O. 3129.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Mysore and their workman, which was received by the Central Government on 04-10-1999.

No. 1-12012/187/97-IR(B-I)]

G. ROY, Desk Officer

#### ANNEXURE

#### MUORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 17-9-1999.

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 37/98

I PARTY :

Smt. Khatoon Bi,  
C/o Shri B.S.A. Lateef,  
Door No. 43, NIGI,  
III Phase, Housing Board,  
Chickmangalur-577 102.

II PARTY :

The Regional Manager,  
State Bank of Mysore,  
Mysore Zone, Sabukar Channaiyah Road,  
Kuvempurnagar,  
Mysore-23.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947, has referred this dispute vide order No. L-12012/187/97-IR(B-I) dt. 3-4-98 on the following schedule :

#### SCHEDULE

"Whether the management of State Bank of Mysore is justified in terminating the services of Smt. Khatoon Bi with effect from September, 1994? If not, to what relief the workman is entitled?"

2. Pursuant to the notice both parties appeared. First party filed her claim statement dated 12-2-99. The gist of the statement is that the first party was appointed w.e.f. September, 1980 till she was terminated during September, 1994. She used to do the work of sweeping and cleaning in the second party bank from 8 AM to 4 PM. She was working against the permanent post. The second party was paying a sum of Rs. 175 per month when the permanent employees are paid Rs. 4000 for the same work.

3. It is her further contention when she asked the management to regularise her service, they developed a hostile attitude and removed her during September, 1994. According to her, her removal amounts to retrenchment. Non-observing of the mandatory provisions contained under section 25-F entitles her reinstatement, back wages and other benefits. The second party have denied the averments in toto except the facts admitted in the counter statement.

4. They have admitted, the first party was employed at the Chickmagalur Branch as a temporary sweeper on casual basis at Rs. 40 per month and later were increased to Rs. 175 per month. Her work consisted of sweeping and storing fresh water every

day which lasted only for about half an hour in the morning. They have denied the factum of termination. According to them due to her old age and failing health she stopped from coming to the branch pleading her physical inability in the year 1994. The first party later having come to know that Sweepers are getting high salaries has raised untenable and frivolous dispute to file to raise the present dispute. She is making false claim when she voluntarily stopped coming to the bank on the advanced age.

5. It is very unfortunate that this lady, possibly under the instigation of somebody appears to have raised this dispute. When she came to the witness box she was not able to walk and she may be aged more than 85 years. She has given her age as 80 years, when she was asked to give her age in the witness box. She has lost her physical strength and also short of hearing. She was brought by two helpers possibly with a view to impress this tribunal to have some compassionate feeling.

6. The second party by examining a witness have reiterated the averments made in the counter statement. In addition to that it is stated that the branch where she was working was extended by taking first floor of the building, this lady expressed her disability to work due to failing health and remained absent herself. Therefore, the contention of the second party is that she was worked as a temporary casual worker all these years and for regularisation the rules of recruitment is completely barred and she is not entitled for any other benefits. As long as she worked who was being paid the salary, bonus and other benefits, therefore, she cannot claim for regularisation nor she can say that her cessation from duty can be treated as termination.

7. The first party has given evidence which is almost supporting the case of the second party. Though we feel pity of this lady but we are certain that somebody to take advantage has manoeuvred to raise this dispute which resulted in this reference. Even if we hold that she has been illegally terminated she is not in a position to resume her work. If according to her the age is 85, in the year 1994 she was already 76 years of age. Therefore the bank might have extended this benefit to this lady taking into consideration her helplessness only to see that she will get some remuneration to live with.

8. Therefore the first party is failed to prove that she has been terminated from service. The second party have justified that this lady due to her failing health has withdrawn from service and therefore, they are not at fault and liable to pay any compensation.

9. Without prejudice to the above contention the second party also relied on some of the judgements which supported their contention. In AIR 1962, SC 1363, the Supreme Court refused to accept the discharge of a workman on the ground medically unfit amounts to retrenchment. The Supreme Court again in 1991 Lab. I.C. 494 consider this aspect of the matter and held that if the services of a workman are terminated on the ground of medical unfitness it will not amount to retrenchment.

10. Having regard to the facts and circumstances, there is absolutely no material, this lady was terminated during September, 1994 as alleged by her. In the result I make the following order :—

#### ORDER

The reference is rejected.

(Dictated to the PA, transcribed by her, corrected and signed by me on 17-9-1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3130.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार चित्रदुर्गा ग्रामीण बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-10-1999 को प्राप्त हुआ था।

[संख्या एन-12012/140/95-आई-आर (बी-1)]

जी. रॉय, उच्च अधिकारी

New Delhi, the 4th October, 1999

S.O. 3130.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Chitradurga Gramin Bank and their workman, which was received by the Central Government on 04-10-1999.

[No. L-12012/140/95-IR(B-I)]

G. ROY, Presiding Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

Dated : 23rd September, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 172/97

I PARTY :

Sri B. K. Basavalingappa,  
Ex-Clerk, Chitradurga Gramin  
Bank, C/o Shivanna, Behind P.O.,  
Tiruvana,  
Chitradurga.

II PARTY :

The Chairman,  
Chitradurga Gramin Bank,  
Head Office,  
Jogimutt Road,  
Chitradurga.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947, has referred this dispute vide Order No. L-12012/140/95-IR(B.I) dated 29th July, 1996 for adjudication on the following schedule :

## SCHEDULE

"Whether the management of Chitradurga Gramin Bank is justified by dismissing Shri B. L. Basavalingappa, Clerk with effect from 31-3-1994? If not, what relief he is entitled to and from which date?"

2. The I party joined the II party Bank and during 1992 he was working as a Clerk at Bannikodu branch. The II party issued a charge sheet Ex. M-1 dated 9-6-92.

3. The allegation of charge was that the I party while working as a Clerk at Kandagal Branch from 19-8-84 to 19-9-90 has misappropriated an amount of Rs. 600 remitted on 7-2-90 to the credit of SB 1497 of Smt. C. Mahantamma. Therefore the misconduct alleged is a breach of regulation 19 within the meaning of Regulation 13(1) of the Chitradurga Gramina Bank Staff Service Regulation 1982.

4. Immediately thereafter Domestic Enquiry was instituted. MW 1 P. V. Kondappa has conducted the Domestic Enquiry. The proceedings which was started on 19-9-92 was concluded on 28-12-93. The Enquiry Officer gave a finding on 24-2-92 as per Ex. M-5. The Disciplinary Authority after issuing a second show cause notice heard this workman and his plea for lesser punishment was rejected and he was dismissed from service w.e.f. 31-3-94.

5. The I party in his Claim Statement initially questioned the validity of Domestic Enquiry. The Management in their Counter Statement justified the fairness of the enquiry. This Tribunal framed a preliminary issue. After recording the evidence of the Enquiry Officer and the concerned workman a finding was given on 21-7-99 holding the Domestic Enquiry in favour of the II party. There after the dispute is adjourned to hear the arguments on merits which includes the validity of the Charge Sheet, Perversity, if any, in the findings of the Enquiry Officer, victimisation and Unfair Labour Practice.

6. Shri M. S. A. the learned Advocate for the I party has question the propriety of Charge Sheet which is admittedly vague and which does not contain material details of incident reflections of the intent of the Charge Sheet.

7. The allegation of charge is stated in the body of this judgement which is true extract from the Charge Sheet. By a reading of the contents, the learned advocate is right in submitted its vagueness, as it is in the nature of a telegraphic Charge Sheet. It does not say under what manner the I party misappropriated a Sum of Rs. 600 belongs to one Mahantamma. Therefore this Charge Sheet does not contain the material particulars, which required under law and therefore we cannot expect the I

party to file a reply to this Charge Sheet after understanding its true content. Though it is made out in the case that one of the customer Mahantamma gave a complaint against this workman the said complaint was not made available to the I party to understand the Charge Sheet.

8. Shri M. S. A. has further submitted that the findings of the Enquiry Officer is nothing put a perverse Order as the evidence of the complaint Mahantamma was not recorded in the Domestic Enquiry and therefore the averments made by her in the complaint is not established.

9. It is not out of place to mention that a complaint which was not proved by the author in the form of evidence will not take the shape of evidence and therefore it is legally not admissible. The complaint is admittedly said to have been filed on 24-3-92 which has been marked as Ex. MW-3 in the Domestic Enquiry. The allegation one can understand is that this Mahantamma gave Rs. 600 to this workman when he was working as a Cashier to Credit the sum to her account on 7-2-90. Accordingly this workman made an entry in her pass book, but later it was discovered that Rs. 600 was credited to her account on 3-7-91. The Pass Book is marked as MEX 5. On a perusal of the Pass Book there is striking of some entry before 10-2-92 and there is an entry of crediting Rs. 600 on 3-7-91. The management relied on Ex. MW 6 a counter foil of the Challan duly sealed by the bank and another counter foil challan Ex. MW7, under which Rs. 600 was credited on 3-7-91 to the credit of C. Mahantamma.

10. The Enquiry Officer by relying to these two circumstances came to the conclusion that the allegation made by Mahantamma is proved. It is also made out that due to threat by this workman and his Father-in-law the said Mahantamma refused to come and give evidence on her complaint. It is evident that the Enquiry Officer to reach the conclusion of guilt has relied on these two circumstances.

11. Circumstantial evidence is a good piece of evidence to prove the allegations but the said circumstance should be linked with each circumstances and any break in the chain of circumstances the evidence cannot be accepted. Therefore the Order is perverse when the Enquiry Officer accepts the complaint of Mahantamma, though her Oral evidence justifying the same is absent. The management was not prevented to record the evidence of Mahantamma in her house. So these circumstances shows that the finding of the Enquiry Officer is relaying the complaint is nothing but a perverse Order.

12. According to the complaint this amount was deposited on 7-2-90, but the I party misappropriated this amount and credited on 3-7-91 under MW 7. They discovered this late deposit on 24-3-92.

13. The above material shows that the complaint is stale and on the basis of such stale complaints issue of vague charge Sheet is not in accordance with law.

14. Therefore, the I party is bound to succeed on the basis of vagueness of Charge Sheet and Perversity in the finding of the Enquiry Officer. Since the

allegation of misappropriation is legally not proved, the following Order is made.

### ORDER

15. The II party are not justified in dismissing the service of this workman without there being any proof. Therefore, the I party are directed to reinstate this workman to the position he was holding immediately. The workman is entitled for 50 per cent of the backwages and continuity of service.

(Dictated to the LDC, transcribed to him, corrected and signed by me on 23rd September, 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3131.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ए.एन.जेड, ग्रिन्डलेस बैंक के प्रबंधन के संबंध में नियोजकों और/उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, मुम्बई के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-10-1999 को प्राप्त हुआ था।

[संख्या एल-12012/90/98-आई.आर. (बी-1)  
जी. रॉय, डेस्क अधिकारी,

New Delhi, the 4th October, 1999

S.O. 3131.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ANZ Grindlays Bank and their workman, which was received by the Central Government on 4-10-99.

[No. L-12012/90/98-IR (B-I)]  
G. ROY, Desk Officer

### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

#### PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/135 of 1998

Employers in relation to the management of  
ANZ Grindlays Bank  
The Assistant Manager (ER),  
ANZ Grindlays Bank,  
Mahatma Gandhi Road,  
Post Box No. 725,  
MUMBAI-1.

#### AND

Their Workmen

The General Secretary,  
Grindlays Bank Employees Union,  
90, Mahatma Gandhi Road,  
MUMBAI-1.

### APPEARANCES :

For the Employer : Mrs. Nishita Mhatre Advocate.

For the Workmen : Mr. P. N. Subramanyan, Representative.

Mumbai, dated 15th September, 1999

### AWARD

The Government of India, Ministry of Labour by its Order No. L-12012/90/98/IR (B-1) dtd. 15-10-98 had referred to the following Industrial Dispute for adjudication.

“Whether the action of the management of ANZ Grindlays Bank, Mumbai in terminating the services of Sri Deepak Mungekar is legal and justified? If not to what relief the workman is entitled ?”

2. Deepak Mungekar (hereinafter referred as the workman) was appointed in the marketing department of ANZ Grindlays Bank Limited (hereinafter referred as the bank) on 19-3-90. This department was opened somewhere in 1989. No appointment letter was issued to Mungekar. He continuously worked in that department till his termination on 30-7-94. While terminating his service he was paid total amount of Rs. 92,966.20 ps. It includes payment of differential wages, payment of bonus and terminal wages. While making the payment of the whole amount the company also deducted Tax at Source. The workman thereafter approached the union for his reinstatement. The union in its turn wrote a letter to the bank and thereafter to Assistant Labour Commissioner to intervene in the matter. All these facts can be said to be not in dispute.

3. The union in his Statement of Claim (Ex-3) contended that after 1986 the bank recruited sub-staff on ad-hoc basis without issuing letter of appointment and without maintaining attendance register. He was paid wages at different rates at different period. The payment was made on vouchers.

4. The union pleaded that the bank terminated his services without any lawful reasons and process. He was doing the work of permanent sub-staff. It is averred that the workman was not issued appointment letter specifying the kind of appointment, pay and allowance to which he is entitled and the period of employment. Infact the bank is obliged to do so in view of the Awards but they did not.

5. The union averred that the bank's action in terminating the services of the workman by letter dated 30-7-94 resorting to retrenchment is invalid, injurious and illegal because it violated and ignored to comply with the various provisions of section 25M of the Industrial Disputes Act of 1947 read with the rules thereunder.

6. The union averred that there are many vacant posts of a sub-staff exists and under such circumstances the termination of the workman is unjustified. He had continuously worked for a long five years. Instead

of making him permanent the bank had resorted to this illegal action. It is submitted that the bank is making steady progress in business and its total earning as published in profits are increasing year after year. It is averred that the increasing financial ability of the bank is the proof to establish its action of retrenchment as unjustified and also vindictive. It is therefore prayed that the award may be passed reinstating the workman in the services of the bank with continuity of service, payment of full back wages and other consequential reliefs.

7. The Bank resisted the claim by the Written Statement (Ex-5). It is averred that in 1989 the bank opened a new department called marketing department. It initially employed a skeleton staff in the department, including the temporary sub-staff. The temporary sub-staff was required to carry out miscellaneous duties which were ordinarily performed in setting up the department. It is therefore they were all of a temporary nature and were introduced purely due to the exigencies of the work in the bank. Thereafter the bank ascertained, by job evaluation the requirement of sub-staff in the department. In 1994 it came to the conclusion that the sub-staff was no longer required as the work expected from him was completed.

8. The bank pleaded that as the workmans services were not more required the bank after following the due process of law and in accordance with the law terminated the services of the workman as per the provisions of section 25F of the Act. He was paid due compensation. The bank denied the contentions of the union which are contrary to their interests and submitted that Chapter VB of the Industrial Disputes Act of 1947 is not applicable. It denied that it violated the provisions of the Act. It is submitted that the workman is not entitled to any reliefs.

9. The union filed a Rejoinder at Ex-6. It is averred that the marketing has been and continues to be an important component for promoting the banks business as in any other bank. It is submitted that this department is nothing new. But specific duties were assigned to keep in touch with different categories of customers and feed them with various services available in the bank. It is averred that workman was not specifically appointed for a particular job or a department. In any event he was only the sub-staff and worked continuously for more than 4 years while the department continued to exist with full compliment of officers and staff. It is averred that after the termination of the workman one Sunil More the temporary sub-staff working at Santacruz Mumbai was posted in his place. It is averred that the bank did not comply with the provisions of the Industrial Disputes Act of 1947. It is pleaded that two workers who were directed to be absorbed in view of the awards passed by this Tribunal did not join the duties. Therefore these two posts exist. It is denied the other statements made by the bank in the written statement.

10. The issues are framed at Exhibit-8. The issues and my findings thereon are as follows :—

Issues	Findings
1 Whether the termination of Deepak Mungekar amounts to retrenchment?	No.

- |  |                     |
|--|---------------------|
| 2. Whether the bank did not follow the provisions of retrenchment while terminating the services of Mungekar?                        | Yes.                |
| 3. Whether the action of the management of ANZ Grindlays Bank, Mumbai in terminating the service of Mungekar is legal and justified? | No.                 |
| 4. If not, to what relief the workman is entitled ?  | As per order below. |

### REASONS

11. Deepak Mungekar (Ex-11) affirms that he was terminated by a letter dtd. 30-7-94 (Ex-13). In this letter it is mentioned that he was appointed w.e.f. 19-3-90 in connection with temporary increase in work of a permanent nature. It is further mentioned that as the work at present no longer required they terminate his service, w.e.f. 1st August, 1994. Thereafter they had given details of calculations in respect of the due amount and net amount payable shown as Rs. 92,966.20ps. So far as this amount is concerned there is no dispute. It can be seen from this letter that there is no word used that his services are retrenched.

12. The order does not in any way convey that the management's decision is to resort to retrenchment. If that would have been so it should have been specifically mentioned therein. While retrenchment is defined as a termination by employers of the service of the workman in section 2(oo) of the Industrial Disputes Act. Termination automatically cannot be deemed to be retrenchment particularly when the total contents of the banks order reveals some other reasons.

13. Retrenchment in Industrial law means shedding of surplus labour and its justification, otherwise can be subject matter of Industrial Dispute in Item 10 in the Third Schedule of the Act where termination of service come under Item-3 of the second schedule of the Act.

14. Sudhir Laxmikant Shete (Ex-14) the Manager affirms that there was an assessment committee who had taken the decision that there is no need to sub-staff. But, he does not know who are the members of the committee. He affirms that he had seen the records of the assessment committee. He relies upon that but he is not ready to produce the same. It is very pertinent to note that on the basis of the evaluation committee the workmans services were terminated. Therefore, it is very essential to bring on the record that there was no work for this sub-staff. As that report is not produced an adverse inference is to be drawn against the bank to the effect that no such report exists or that no such decision had taken place that sub-staff is not required.

15. Shete affirms that there was an interview of the workman wherein he said that he will not sweep. Therefore, he was not selected. But so far as this statement is concerned it is not supported with any documents nor he was ready to produce the same. Therefore adverse inference is to be drawn against the bank.

16. On the other hand there is evidence of Subramanian (Ex-12) who affirms that there is increase in the banks business. He also produced a letter (Ex-21) dtd. 29th December, '98. It has been informed to Mr. Shete the Employee Relations Manager that in view of the directions given by this Tribunal in two references which were upheld by High Court two employees did not join the duties and as such there are two vacant posts still exists. At this juncture I may mention it here that Subramanian in his deposition had referred to the documents which he produced alongwith (Ex-10) and which were initially not exhibited. I have exhibited them as 17 to 21.

17. From the above said discussion it is very clear that their still exists the post and there is no question of shedding of the surplus labour under the coverage of retrenchment. In the termination letter the bank had mentioned reasons, but, for the reasons stated above I find that the reasons mentioned therein are not genuine reasons and therefore it cannot be said to be a compliance contemplated under the Act.

18. It is argued on behalf of the union that the bank in their written statement has not said any word in justification of retrenchment, and no record is produced to that effect. Section 25F of the Act deals with conditions precedent to retrenchment of a workman. Clause a specifically states that while giving notice in writing reasons are to be given for retrenchment. No doubt the notice refers to reasons but I have already pointed out that the reasons given in that notice are not justifiable and correct. I therefore find that there is no proper compliance. Clause-C deals with notice in the prescribed manner to be served on the appropriate Government. There is nothing on the record to show that the bank had served such a notice to the appropriate Government.

19. Section 25G deals with procedure for retrenchment. In view of that section the employer shall ordinarily retrench the workman who was the last person to be employed in that category unless for reasons to be recorded the employer retrenches any other workman. Rules 76 & 77 of the Industrial Disputes (Central Rules 1957) are also relevant. The bank had not produced any record to show that this provisions are complied by it. There is nothing to show that Mungekar was the last person.

20. The Learned Advocate for the bank placed reliance on Chemical Mazdoor Sabha Vs. Victor Organies Private Limited 1992 II CLE 465. Their Lordships came to the conclusion that the Rule-81 is not mandatory. If cannot vitiate whole action of the retrenchment. In that case the notice of seniority was displayed simultaneously with the notice of retrenchment. This there was a display of seniority list but strictly not seven days in advance as provided in Rule-81 of the Act. Relying on the ratio given in this authority it is submitted that non-compliance of these rules will not vitiate the action. Even though that is so there is non-compliance of the section itself which I have already stated above.

21. Shete accepts further that since he joined the service that is somewhere in 1971 there was no retrenchment in the bank. Admittedly the banks business

is increasing every year. I therefore find that there is no justification for the action of the bank for terminating the services. They have not complied with the provisions of retrenchment. In the result I record my findings on the issues accordingly and pass the following order :—

### ORDER

The action of the management of ANZ Grindlays Bank Mumbai in terminating the services of Deepak Mungekar is not legal and not justified.

The bank is directed to reinstate him in service in continuity, with full back wages making adjustments of the payments made to him while terminating his services.

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3132.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पाण्डियन ग्रामा बैंक के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-10-1999 को प्राप्त हुआ था।

[संख्या एन-12012/49/93-आई. आर. (बी-1)]

जी. राय, डेस्क अधिकारी

New Delhi, the 4th October, 1999

S.O. 3132.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Pandyan Grama Bank and their workman, which was received by the Central Government on 4-10-1999.

[No. L-12012/49/93-IR(B-I)]

G. ROY, Desk Officer

### ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL,  
TAMIL NADU, CHENNAI

Wednesday, the 18th day of August, 1999

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L.,  
Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 44 OF 1993

(In the matter of the dispute for adjudication under section 10 (1)(d) of the Industrial Disputes Act, 1947 between the workman and the management of Pandyan Grama Bank.)

BETWEEN

Shri A. Subash Chandra Bose,  
3/2 North Street, Muniyandi Servai Lane,  
Ramanathapuram-623501.

AND

The General Manager,  
Pandyam Grama Bank, P.B. No. 4,  
135/9, Vembakkottai Road,  
Sattur-626203.

REFERENCE :

Order No. 12012/49/93-I.R.(B-I) dated  
4-5-93, Ministry of Labour, Govt. of  
India, New Delhi.

This dispute coming on this day for final disposal in the presence of Thiru D. Hariparanthaman for Tvl. K. Chandru and D. Bharathy, advocates appearing for the Workman and of Tvl N.G.R. Prasad and S. Vaidyanathan, advocates appearing for the Management, upon perusing the reference, claim and counter statements and other connected papers on record and the counsel for the workman having made an endorsement reporting 'No instructions', this Tribunal passed the following

## AWARD

This reference has been made for adjudication of the following issue :

"Whether Shri A. Subash Chandra Bose, NVN Agent, is a workman of the Pandyan Grama Bank? If so, whether the action of the management of the bank in terminating the services of Shri A. Subash Chandra Bose w.c.f. 2-2-90 is legal and justified? If not, to what relief the workman is entitled to?"

Counsel for petitioner reported 'No instruction'. Endorsement made. Petitioner called absent. Dismissed for Default.

Dated, this the 18th day of August, 1999.

THIRU S. ASHOK KUMAR, Industrial Tribunal  
COPY OF ENDORSEMENT MADE BY COUNSEL FOR WORKMAN

Reported No Instruction.

Sd/.....18-8-99

Counsel for Petitioner.

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3133.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार वैश्य बैंक लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-10-1999 को प्राप्त हुआ था।

New Delhi, the 4th October, 1999

S.O. 3133.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Vysya Bank Ltd. and their workman, which was received by the Central Government on 4-10-1999.

[No. L-12011/48/88-DID (IR) (B-I)]

G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT, BANGALORE

Dated : 20-9-1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 22/89

I PARTY :

Namadeva Pai,  
Through All India Vysya Bank  
Employees Union,  
Represented by its  
General Secretary,  
No. 489, Avenue Road,  
Bangalore-560002.

II PARTY :

The Management of M/s Vysya Bank Ltd.  
by its Chairman,  
Administrative Office,  
No. 72, St. Marks Road,  
Bangalore-560001.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Dispute Act, 1947 has referred this dispute vide Order No. L-12011/48/88-DIB dated 16-2-89 on the following schedule :—

## SCHEDULE

1. Is the Management of Vysya Bank Limited Bangalore justified in dismissing from service, Shri M. Namadeva Pai, sub-staff vide managements order dated 31-3-1986? If not to what relief the workman is entitled?"

2. The first party was working as a sub-staff. He has joined the services of the second party on 17-4-1979. While he was working at Hassan Branch, the second party issued a Charge sheet dated 12-6-84 as per Ex. M2. The gross misconduct was insubordination, riotous, disorderly behaviour and using indecent language which are coming

[संख्या एल-12011/48/88-डी आई. डी. (आई. आर.) (बी-1)]

जी. राय, डेस्क अधिकारी

under para 19.5 (c)&(e) of Chapter 19 of the BPS. Briefly the charges are as follows :—

Charge No. 1 : That you Sri M. Namadeva Pai while functioning as a Sub-staff in the Hassan Branch of the Vysya Bank Limited at Hassan during the period between 17-4-1979 and 23-1-1984 having been entrusted on the dates mentioned in column No. 2 of Annexure 'A' (hereto annexed) with the cheques bearing the Nos. mentioned in column No. 3, for the amounts mentioned in column No. 4, drawn on the Banks/treasury mentioned in column No. 5 with instructions to tender them on the same day or immediately thereafter to the said relative Banks/Treasury, collect their proceeds and produce them at the said Branch, failed to do so and after inordinate delays tendered them at the relative Banks/Treasury, collect their proceeds and produce them at the said branch, failed to do so and after inordinate delays tendered them at the relative Banks/Treasury on the dates mentioned in column No. 6. In consequence of which there were inordinate delays in their realisation/disposal, the dates of their realisation/disposal being the dates mentioned in column No. 7 of the said annexure and that you are thereby alleged to have committed gross misconduct under clause (j) of Para 19.5 and minor misconduct under clause (c) of para 19.7 of Chapter XIX of the Settlement on the Industrial Disputes between certain Banking Companies of which the Vysya Bank Ltd., is one and their workmen, in that you acted prejudicially to the interest of the bank and were negligent in the performance of your duties.

Charge No. 2 : That you Sri M. Namadeva Pai while functioning as a Sub-staff in the Hassan Branch of the Vysya Bank Ltd., at Hassan during the period between 17-4-79 and 23-1-84 having been entrusted on 18-7-83 with two cheques viz. cheque bearing No. 8735 dated 14-7-83 drawn by Anitha Transport for Rs. 182.50 on Hassan District Co-operative Central Bank Ltd., favouring M/s. H. V. Subbaraya Setty and Sons, a constituent of the Hassan Branch of the Vysya Bank Ltd., and another cheque bearing No. 8736 dated 14-7-83 drawn by Anitha Transport for Rs. 476.80 on Hassan District Co-operative Central Bank Ltd., favouring M/s. H. V. Subbaraya Setty and Sons, with instructions to tender them immediately to the drawee bank, collect their proceeds and produce them at the branch so as to enable the branch to credit the proceeds to the account of the said H. V. Subbaraya Setty and Sons, failed to tender the said cheques to the drawee bank and collect their proceeds and when called upon by a Memo bearing No. 5715/83 dated 3-8-83 by the Branch Manager to explain as to what you had done with the said

cheques, you failed to give any reply or even produce the said cheques before the Branch Manager to facilitate him to take further action. You are thereby alleged to have been grossly negligent in the performance of your duties or negligence being such as to involve the bank in financial loss. Your acts in this behalf are alleged to constitute gross misconduct under clause (i) of para 19.5 and clause (c) of para 19.7 of Chapter XIX of the settlement on the Industrial Disputes between certain Banking Companies of which the Vysya Bank Ltd. is one and their workmen.

Charge No.3 : That you Sri M. Namadev Pai while functioning as a Sub staff in the Hassan Branch of the Vysya Bank Ltd., at Hassan during the period between 17-4-79 and 23-1-1994 when on 29-11-82 you were called upon by the Accountant Sr. K. Nagaraj in the branch office during the working hours to account for the Pay Order No. 434706 for Rs. 140/- entrusted to you on 25-11-82 for delivering it to the City Co-operative Bank Ltd. and questioned you as to whether you had delivered it to the said City Co-operative Bank Ltd. you indecently and in an insubordinate and riotous manner retorted him by aggressively addressing him. You are thereby alleged to have committed an act of wilfull insubordination and conducted yourself in a riotous, disorderly and indecent manner in the premises of the Bank towards the said Accountant. Your acts in this behalf are alleged to constitute gross misconduct under clauses (c) and (e) of para 19.5 of Chapter XIX of the Settlement on the Industrial Disputes between certain Banking Companies of which the Vysya Bank Ltd. is one and their workmen.

Charge No. 4 : That you Sr. M. Namadev Pai while functioning as a Sub staff in the Hassan branch of the Vysya Bank Limited at Hassan during the period between 17-4-79 and 23-1-84, on 5-4-83 at about 11.30 AM at the stair case leading to the branch office of the Vysya Bank Ltd., at Hassan, grossly abused your officer, Sri B. Keshavamurthy, Accountant by addressing him in a highly scurrilous and defamatory language and threatened to beat him with a Chappal and that you thereby committed an act of insubordination, conducted yourself in a riotous, disorderly and indecent manner in the premises of the branch and that you thereby committed gross misconduct under clauses (c) and (e) of para 19.5 of Chapter XIX of the Settlement on the Industrial Disputes between certain Banking Companies of which the Vysya Bank Ltd., is one and their workmen.



3. Since the reply of this workman was not satisfactory a domestic enquiry was conducted by appointing an Enquiry Officer. After conducting the domestic enquiry the enquiry officer gave a finding as per Ex. M26 on 25-8-1985. The disciplinary authority accepted the findings. After giving a show cause notice proposing the punishment and after giving necessary opportunities this workman was dismissed from service w.e.f. 31-3-1986. The appeal filed by him came to be rejected.

4. This tribunal framed a preliminary issue to give a finding on the validity of DE. My learned predecessor after examining the materials on record and the evidence of enquiry officer and the workman came to the conclusion that the enquiry was not conducted in accordance with law and principles of natural justice. Consequently to this finding the second party was permitted to adduce evidence and justify its action. The workman filed an application for interim relief which was allowed.

5. To prove the misconduct of this workman the second party examined 3 witnesses as MW2 to MW4. The workman examined himself as WW1. The learned advocates have taken through the evidence recorded and submitted their arguments.

6. Now the point that requires determination in this dispute are :—

- (a) Whether the second party proved the misconduct alleged in the charge sheet through the witnesses ?
- (b) If the above point is held in the affirmative what punishment this tribunal can impose ?

7. Point 'a' :—MW2 L. V. Shreedharamurthy is the first witness to speak about all the charges levelled against this workman. The evidence of this witness is that he was the concerned Branch Manager 1982 to 1984. His further evidence is the bank used to entrust the distribution of tapals, collection of cheques from outside bank etc. The cheque tendered by a customer drawn against other banks used to be realised in the clearing house in the drawee bank is a member. Since the Co-operative Banks are not the members of clearing house, the cheque drawn on them used to be entrusted to this workman to get it encashed in that particular branch and to deposit it on the very same day. It is his further evidence after he took charge as a Branch Manager he received some complaint that this workman has causing some delay in collecting proceedings of a cheque, pay order from the drawee bank. Because of this delay they used to be delayed in processing the account of the customer. On his enquiry it was known that the first party used to tender the cheques late. Though he was cautioned he has not shown any improvement. During the internal audit of this an observation was made with regard to remittance of cheques for collection. Due to this observations a memo was served to the workman as per Ex. M27. But he has not submitted any explanation to Ex. M27.

8. To prove this aspect of the matter this witness has taken through this court to the entrustment

register and other registers maintained in the bank which was earlier marked from Ex. M28 to Ex. M33. Each and every circumstances in causing the delay was amplified some complaints filed in this regard also marked as Exhibits. This witness brought his specific instance in his evidence that this workman caused delay in paying the instalment of one Mr. Ramesh Kumar, a staff of the City Co-operative Bank, where he has taken a loan. Due to that delay in submitting the pay order there was exchange of words where this workman used unparliamentary and flimsy words to the said Ramesh Kumar. He has also brought to an incident on 4-4-1983 where he has abused one Keshava Murthy with a most vulgar language in the premises of the bank which was narrated in the charge sheet.

9. In the cross examination a detailed procedural aspects of collection of cash accounts the cheques were asked and this witness has answered all these queries. He has denied that implicated this workman, the second party prepared got up documents such as Ex. M27 and M28.

10. The next witness is MW3 K. Nagaraj an officer who was then working at some branch. He has deposed that this workman was entrusted the collection of cheques, counter work, local delivery and cash bundles stitchings. In respect of collection from the local banks of the cheques drawn on them, the bank was receiving oral complaint by the customers were causing delay in clearance of their cheques. In spite of his advice the first party had not improved in fact the entrustment was noted in a register Ex. M33.

11. He further deposed on 21-6-82 four instruments were handed over by taking the signature in the register. One instrument was cleared on 2-7-82. Likewise some other instruments were also used to be realised after a considerable delay. The details are given in the evidence. In the cross examination of this witness once again we will find suggestions and denials and the questions related to examine the bonafides of this witness. The relevant question asked by the defence is non-production of delivery book before tribunal.

12. MW4 is a retired official by name Keshava Murthy. This witness was an Accountant during 1982 to 1986. He spoke about an incident occurred on 4-4-85. That relates to tally of the cash whether always used to be shortage of Rs. 5 and other small denominations and those used to be adjusted by good of the shortage by the cashier. In one such incident the first party was sent for getting change for Rs. 10 and in that regard there was a quarrel and where the workman intensely used vulgar language to threaten this witness that he will assault with slippers.

13. We have excepted the charges levelled against this workman. Those charges indicate that this workman was not faithful to his duties and he was in the habit of picking up quarrels and threatening the officials of the bank and also in the habit of using vulgar language which cannot be narrated due to its obscenity.

14. In these circumstances this tribunal have to examine two important aspects of this matter. The first is whether the entire staff of the branch had any animosity against this workman to implicate him in the charges levelled against him? To that extent whether these witnesses are went to the extent of giving a false evidence to implicate him? This workman has not made any averments that with some motive or object these witnesses gave false evidence against him.

15. This workman was dismissed in the year 1986 and the allegation against him begins from the year 1979 to 1984. Therefore, it is very difficult to hold that all these witnesses were with a view to falsely implicate this workman are indulged in giving false evidence. Therefore, there is absolutely no impediment to accept the evidence of these witnesses which go against this workman and supports the charges levelled against him. Therefore I hold point 'a' in the affirmative.

16. Point 'b':—When we framed point 'a' we are conscious of the fact that the evidence recorded before us enabled to appreciate the evidence after noting the demeanour of the witnesses. We had the opportunity to see the witness in the witness box and the manner in which they are giving the evidence. Therefore, we pre-supposed that point 'a' is required to be held against this workman.

17. If we examine the charges though it looks minor the irritation caused to the personnel of the bank including the officers is most abnoxious. After all an office is a premises where all the paid employees will attend to work with some objects and responsibilities entrusted to them. It is not a place of fish market where the customers can behave as they like. Certain norms has to be followed and some discipline is required to be maintained. Whatever may be the personal problems of an employee but he cannot exhibit those problems when he once comes to the work place. In fact in M.C. Gupta V/s Labour Court at Meerut and another a learned single judge of the Allahabad High Court reported in 1997 LJR 389 held that an abusive language by a workman can be a good ground for dismissal, which will depend on the entire circumstances and the context in which such language was used, e.g. against whom which was used, etc. There cannot be an absolute proposition that abusive language can never be a ground for dismissal and it will all depend on the facts and circumstances of the case.

18. As against this the learned advocate for the first party relied on a decision of the Supreme Court in Ved Prakash Gupta V/s. M/s. Delton Cable India (P) Ltd. reported in (1984) 2 SCC 569. In this case the tribunal by invoking Section 11A has set aside the order of dismissal and order for reinstatement and back wages to the workman. The Supreme Court upheld this judgement as according to which the punishment were shockingly disproportionate and it also amounts of victimisation and unfair labour practice. A single incident of abusive language was considered to be a misconduct which does not warrant dismissal.

19. The contents of the abusive language used by this workman was spoken by all the witnesses in the domestic enquiry. It is not to say that their narration in the domestic enquiry is accepted, but it is only to say the reproduction of the said language in the evidence recorded before this tribunal was found to be unnecessary as the same causes irritability.

20. In these circumstances we have to examine the impugned order passed by the Disciplinary Authority after domestic enquiry. The abnoxious behaviour of this workman is not a healthy atmosphere for any official to work along with him. His reinstatement after a lapse of 16 years will not bring any credit to the bank. Therefore, the better way to decide this dispute, as contended by the learned advocate for the second party, is to award adequate compensation in lieu of reinstatement and other benefits. In the result instead of reinstatement an adequate compensation is necessary. I hold the point 'b' accordingly.

21. In the facts and circumstances mentioned above, the following order is made :

#### ORDER

The order of dismissal made by the first party was in accordance with law. However, taking into consideration the long duration of litigation, the second party are directed to pay a sum of Rs. 1,00,000/- (Rupees one lakh only) as compensation which will meet the ends of justice. This amount shall be paid within 30 days from the date of publication. Failure to comply the directions, this amount will carry an interest of 13 per cent from the date of this order till payment.

(Dictated to the PA, transcribed by her, corrected and signed by me on 20-9-1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3134:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, सर्वे रेलवे के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-10-1999 को प्राप्त हुआ था।

[संख्या एल-41012/25/93 आई आर. (डी यू. (बी-1)]

जी. राय, डेस्क अधिकारी

New Delhi, the 4th October, 1999

S.O. 3134.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Southern Railway and their workman, which was received by the Central Government on 4th October, 1999.

[No. L-41012/25/93 IR(DU)/(B-1)]  
G. ROY, Desk Officer

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL CUM LABOUR COURT, BANGALORE

Dated : 22nd September, 1999

## PRESENT :

JUSTICE R. RAMAKRISHNA  
PRESIDING OFFICER

C.R. No. 33/94

## I Party

Y. N. Srinivasa Murthy,  
No. 403/3, Pushkarni Road,  
Yelahanka Post,  
BANGALORE-560 001.

## II Party

The Divisional Personnel  
Officer,  
Southern Railway,  
BANGALORE-560 001.

## AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-41012/25/93-IR(DU) dated 28th March 1994 for adjudication on the following schedule.

## SCHEDULE

"Whether the action of the management of Southern Railway, Bangalore Division in discharging Shri Y. N. Srinivasamurthy, Bungalow Lascar from service is justified? If not, to what relief the workman is entitled?"

2. The I party was appointed as Bungalow Lascar by an Order dated 7-8-90 in the Pay Scale of Rs. 750/- — 940/-. His services came to an end by virtue of an order discharging w.e.f. 1-8-91.

3. The contention of the I party is that the Order of discharge is illegal as the same was passed without holding a Departmental Enquiry as contemplated under Railway Service (Discipline and Appeal) Railways 1965. It is also his contention that the II party have not complied Section 25(F) of the Industrial Disputes Act, 1947. Therefore the discharge being a retrenchment and not following Section 25(F) will create a right for reinstatement, backwages and continuity of service. The further contention is that he has worked more than 240 days continuously.

4. The II party in their counter statement have contended that the I party was appointed as an Substitute Bungalow Lascar to work under Senior Divisional Mechanical Engineer w.e.f. 1-7-90. Subsequently, the Senior Divisional Mechanical Engineer vide his letter dated 22-7-91 informed that the performance of this workman was not satisfactory. This workman was also absent from duty w.e.f. 18-7-91 continuously. Therefore, his services are discharged invoking a circular connected to the appointment and discharge of Bungalow Lascars.

5. They have further contended that the discharge of this workman is not a retrenchment but as per the contract of appointment the II party reserved their right to dispense with the service of the workman if the conditions are not fulfilled.

6. Since there was no scope for framing any additional issues, this Tribunal directed the parties to concentrate and lead evidence on the points of dispute. The II party was asked to justify their action.

7. The II party examined a Senior Labour Welfare Inspector as MW 1. This witness has disposed that as per Ex M-1 it was decided to engage the service of the I party as a Bungalow Peon. Ex. M-2 is an Office Order dated 7-8-1990 appointing the I party as substitute Bungalow Lascar. He was discharged from service w.e.f. 1-8-1991 as per Ex M-3. Ex M-4 is a Circular issued by the General Manager by laying down some conditions as it regards to appointment and discharge of Bungalow Peons. Ex M-5 dated 25-5-1991 is a letter issued by a Chief Medical Superintendent of Wheel service of a workman if his work is not satisfied. Admittedly

and Axle Plant Hospital giving certain details as it relates to the I party. Ex M-6 is an Office Order dated 1-12-1992 which is a Modification Order to the Order passed under Ex M-3.

8. In Cross-examination nothing is elicited to reject the evidence of this witness spoken by him in the Examination-in-chief.

9. Against this evidence, the evidence of the I party is that as a Bungalow Lascar he has worked till 18-7-91 from 1-7-90. After 18-7-91 he fell sick and took treatment in the Railway Hospital as per certificate Ex W-1. From there he was referred to Bowring Hospital as per Ex W-2. He was discharged on 22-1-91. Since he has not recovered, he took treatment from a local Doctor as per Ex W-3. When he went to Workspot he was informed that he was removed from service. In the Cross-examination it is elicited that he did not apply for the sanction of leave due to his sickness. He has also shown ignorance about the Rules directing him to work satisfactorily for a minimum period of 3 years for getting permanent job.

10. The learned Advocate Shri D R V B for the I party filed a detailed written arguments to show that the discharge of this workman is directly opposed to the mandatory provisions of Section 25(F) and also due to the fact that the management have not conducted any enquiry before he was discharged and the workman is bound to succeed on both counts.

11. Against this contention the II party also filed written arguments. It is made out that this workman willfully disregarded the leave rules and also the conditions laid down in his appointment and therefore the II party had every right to discharge him from the service.

12. Ex M-4 is a confidential document, which deals with appointment and discharge of Bungalow Peons. This Circular laid down that the Administrative Care Officers are entitled to have a Bungalow Lascars, and they may refer men of their choice and appoint them as Lascars in the Bungalow as Peons. The conditions laid down in this circular was that the Candidate should be a literate with the knowledge of Regional Language and within the particular age limit. The Officers sponsoring the candidate should furnish a certificate as per proforma, shown in Clause B of this circular.

13. This circular further laid down that the service of this substitute lascars can be terminated within 3 years if found unsatisfactory and if their service are not required by the same officer or his successor or any other Administrative Officer within 3 years. They will be eligible for regular absorption after 3 years to continue their service in the Open line of consideration. Some scope is also made out for fresh recruitment if lascars demits service before completion of 3 years of is discharged for misbehaviours or any other reason. Ex M-5 is a letter sent by Chief Medical Superintendent showing that this workman after Consuming Rat Poison on 19-7-1991, was treated and after taking treatment he has not attended Hospital from 23-7-91, and therefore he has been discharged from sick list for non-attendance w.e.f. 23-7-91. Ex. M-6 is an Office Order which is a modification of earlier order in which the II party decided to pay the salary for 5 days from 18-7-91 to 22-7-91. Under Ex M-3 his entitlement for 14 days pay in lieu of notice and 15 days pay for retrenchment compensation was ordered.

14. The I party to justify the absence was made available Ex W-3 of having treated this workman for Viral Hepatitis, from 22-7-91 to 31-10-91.

15. Admittedly this workman was appointed as per the circular with a condition that he can be discharged if his performance is not upto the mark. His initial appointment was made for 3 years only. His absorption depends on his good performance during the first 3 years.

16. Admittedly this workman remained absent from 22-7-91 and he has reported only after 31-10-91. The purpose of appointing Bungalow Lascars were to assist the concerned Officers in the Bungalow by doing prescribed work entrusted to him. He will be in position of a companion to this officer. The Management reserved the right to discharge the

the I party worked only about a year and then remained absent for more than 3 months and therefore the II party exercised their rights.

17. It may be said that a notice would have been issued before discharge, but the circular does not make provision to that, though the Industrial Law provides. This workman has not completed 3 years of service. It is also not a punishment for any misconduct. The discharge will not carry any stigma.

18. The contention of the learned Advocate for the I party that his discharge amounts to retrenchment is not acceptable. The continuation of this workman depends on a satisfactory service in the initial period of 3 years. Therefore, his efficiency is a condition precedent and therefore it cannot be called as retrenchment. However, the management have also ordered 14 days pay in lieu of notice and 15 days payment as retrenchment compensation for having completed one year of service.

19. Having regard to the facts and circumstances, the I party has not made out any case that the discharge from the service by the management was violating any law. In the result I make the following order.

#### ORDER

20. The action of the management in discharging the services of the I party is justified. The reference is answered accordingly.

(Dictated to the L.D.C. transcribed by him, corrected and signed by me on 22nd September, 1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3135.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्र सरकार विन एंड एक्सर प्लांट के प्रबंध तंत्र के संबंध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 04-10-1999 को प्राप्त हुआ था।

[संख्या एल-41012/01/95-आई. आर. (बी-1)]

जी. राय, डेस्क अधिकारी

New Delhi, the 4th October, 1999

S.O. 3135.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Wheel and Axle Plant and their workman, which was received by the Central Government on 4-10-1999.

[No. L-41012/01/95-IR(B-I)]  
G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 22-9-1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 117/97

I PARTY

Surendra Gurumath,  
S/o Sharanappa,

Aged about 37 years  
Residing at No. 104-H,  
Railway Quarters West  
Colony,  
Yelahanka,  
Bangalore-560064.

I PARTY

The Management of M/s.  
Wheel and Axle Plant,  
represented by its  
Deputy Chief Mechanical  
Engineer (Axle)  
Yelahanka,  
Bangalore-560064.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-41012/1/95-IR(B.1) dated 27-2-1996 on the following schedule :

#### SCHEDULE

"Whether the action of the management in removing Shri Surendra Gurumath from service for certain alleged charges is justifiable? If not, what relief he is entitled to?"

2. The first party was appointed as a skilled Artisan Axle Unit Operator w.e.f. 22-12-1983. He was unauthorisedly remained absent from 17-6-1991. Since there was no intimation from this workman, the second party issued a charge sheet dated 6-8-91 under Railway Servants (D&A) Rules 1968. The charge sheets sent by post was returned undelivered. This workman reported back to the duty on 14-9-91. The said charge sheet was served to him on 26-9-91. After taking extension of time he has submitted a reply. Since there was inconsistency in the reply given to the charge sheet and the joining report filed before the authorities, the second party have initiated a domestic enquiry as the conduct of this party is a misconduct which amounts to infringement of rule 3(1)(i) and (iii) of Railway Service Conduct Rule which directs that every Railway Servant shall at all time maintain devotion to duty and do nothing which is unbecoming of a railway servant.

3. The Enquiry Officer gave a finding that the charges against the workman were proved. The Disciplinary Authority accepted the charges and gave a show cause notice before imposing the punishment. The explanation of this workman was not accepted and therefore, treating the misconduct as a major penalty, imposed a punishment of dismissal. The workman was not successful before the Appellate Authority and also before the Revisional Authority.

4. We have framed a preliminary issue to give a finding on the validity of DE. After examining the Enquiry Officer and this workman we gave a finding in favour of the management.

5. Shri MSA learned advocate for the first party has conceded the fact that this workman remained absent unauthorisedly for the period alleged in the charge sheet but tried to justify on the basis of illness as contended by this workman in his reply to the charge sheet.

6. Against the submission Shri R. Daivikan, the learned advocate for the second party has submitted that this workman remained absent unauthorisedly. The second party establishment had got its own hospital equipped with all modern amenities and every workman who required to be absent on medical ground shall report to the hospital and take treatment, there is provision that they refer to a major hospital for treatment. Obviously non attending the hospital is indicative of the fact that this workman remained unauthorised absent of his own and made out a false case before the authorities.

7. There is justification in the submission of Shri Daivikan. It is also brought before us that previously this workman was in the habit of remaining absent without a sanctioned leave

and therefore, there is disruption of work due to his unauthorised absent. Of course the management have produced leave particulars of this workman which is conclusive that this workman is quite irresponsible and used to remain absent unauthorisedly. During 1991 he has remained absent for 182 days without leave or permission.

8. Now the question is whether this tribunal can interfere with the order of punishment in view of the fact that absenteeism without prior permission does not amount to having committed a misconduct affecting the integrity of the workman which cannot be a moral turpitude. We have material that earlier to this absence the management have not warned this workman and imposed some minor punishment. We are not finding fault in not imposing minor punishment, but as a matter of fact non performance of taking such action has made this workman not to realise his responsibility and to behave in a manner which is prejudicial to the interest of the second party. Therefore, I am of the view that we can involve the benevolent provisions contained under section 11A of the Industrial Disputes Act 1947.

9. On a reading of this section the adjudicating authorities have the jurisdiction to examine the punishment imposed by the employer and in an given circumstances the said punishment may be set aside and directions may be given for reinstatement of the workman on such terms and conditions including the award of any lesser punishment in lieu of discharge or dismissal as the circumstances of the case may require. In the result I make the following order :—

#### ORDER

The order of dismissal by the second party made against the first party is hereby set aside. The second party are directed to reinstate this workman to the position he was held before the order of dismissal. He is not entitled for any back wages and he is also not entitled for continuity of service from the day of dismissal till his reinstatement. It is made clear that this workman remains absent unauthorisedly even for one day in the next 3 years from the date of his reinstatement, the management require a right to discharge him from service. The reference is answered accordingly.

(Dictated to the PA. transcribed by her, corrected and signed by me on 22-9-1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 1999

का.आ. 3136.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अंतर्गत् में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ मैसूर के प्रबंध तंत्र के संबंध नियोक्तों और उनके कर्मचारों के बीच, अन्तर्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 05-10-99 को प्राप्त हुआ था।

[संख्या एन-12012/12/95-आई. आर. (बी-1)]  
जो. रॉय, डेस्क अधिकारी

New Delhi, the 5th October, 1999

S.O. 3136.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Mysore and their workman, which was received by the Central Government on 5-10-1999.

[No. L-12012/12/95-IR(B-I)]  
G. ROY, Desk Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 22nd September, 1999

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 120/97

AND

C.R. No. 145/97

#### I PARTY

Sri B. B. Srinivasa,  
S/o Boregowda,  
R/o Boovanahalli,  
Near Huchamma Temple, Kasaba,  
Hassan.

#### II PARTY

The Chief Manager,  
State Bank of Mysore,  
Opposite to S. P. Office,  
Hassan.

AND

Sri H. N. Chandrasekar,  
S/o Nanjappa,  
R/o Mukkundur Hosahalli,  
Malladevarapura Post,  
Hassan.

The Chief Manager,  
State Bank of Mysore,  
Opposite S.P. Office,  
Hassan.

#### COMMON AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/5/95-IR (B-II) and L-12012/12/95-IR (B-I) dated 8-3-96 and 12-7-96 for adjudication on the following schedules :

#### SCHEDULE FOR 120/97

"Whether the action of the management of State Bank of Mysore in terminating the services of Sri B. B. Srinivasa w.e.f. 30-11-1993 is justified? If not, what relief he is entitled to?"

#### SCHEDULE OF 145/97

"Whether the action of the management of State Bank of Mysore in terminating the services of Sri H. N. Chandrasekar w.e.f. 25-1-94 is justified? If not, what relief he is entitled to?"

2. The relief sought by the concerned workmen are identical. The management is common in both disputes. We have clubbed these two disputes and recorded common evidence. Therefore to avoid any repetition it is decided to pass a Common Award.

3. In CR 120/97 the case of the I party is that he was appointed on Daily Wages w.e.f. 31-3-89. The initial daily wages was Rs. 15. During 1993 he was getting daily wage at Rs. 25.

4. According to him he has put up more than 240 days of service continuously and also worked more than 4 years and therefore the refusal amounts to retrenchment. The II party have not followed the mandatory provisions contained under Section 25F of the Act and therefore he is entitled for all benefits.

5. According to him his services were continued from the date of appointment till 22-11-93 without any inter option. The II party orally refused to provide work after 22-11-93.

6. His further contention is that he was working on the existing vacancy and therefore the II party instead of regularising the service, was legally terminated him. Therefore he has prayed reinstatement, back wages and other statutory benefits.

7. The workman in CR 145/97 has raised the same contentions taken in CR 120/97.

8. The II party have filed the Counter Statement which is identical in both cases.

9. They have denied the date of employment, nature of work, the length of service and their entitlement to the benefit under Section 25F of the act. They have also denied the continuous service of 5 years, alleged by these workmen.

10. It is contended that the service of this workman was being utilised by the II party only on specific days to discharge certain limited functions of gardening and up keeping of the premises prior to the commencement of the business hours of the bank. The work assigned was casual in nature and would not require more than an hour each day. After attending to such work the I party was free to seek employment elsewhere and their presence was not required in the bank. This they were being paid fee oral contract for their service. The question of appointing and terminating the service of the above workmen does not arise. Even their services have never exceeded more than 90 days in any calendar year.

11. After pleadings are completed this tribunal having found that the matter may be decided on the evidence touching the points of dispute have not framed any additional issues.

12. The II party examined two witness in support of the contentions raised by them.

13. The evidence of MW 1 is connected to CR 120/97. This witness has stated that he is not professionally acquainted with this workman but he is giving evidence on the basis of some records maintained in the bank. According to him the party has worked as a Temporary Sub-staff on some occasions. They have not maintained any records as it relates to Casual employees. But they have maintained records as it relates to Temporary employees. He has further deposed that Ex. M-1 are the extract of the attendance register and Ex. M-2 are the extract of salary paid to this workman. According to him this workman worked 53 days in 1991, 37 days in 1992 and 89 days in 1993. He has also produced Ex. M-3 in support of the above contention.

14. It is his further evidence that the work of the I party was not a continuous one, therefore he was not regularised. There are two methods of appointing sub-staff. The first method is securing the names from Employment Exchange of the persons who got the eligibility such as Age, Educational Qualification and other requirements. The II methods is selecting the persons who has worked as Temporary Sub-staff for not less than 240 days in a year. This method is on basis of availability of post and seniority among that category.

15. MW-2, as Assistant General Manager, has deposed that he know the I party in CR 145/97. At that time he was working as a Branch Manager of Hassan District. He has further stated that the bank has not issued any appointment letter to the I party. As per the statement Ex. M-3 this workman has worked during 1991 to 1993. He was a Casual Labour. The nature of work was cleaning and gardening. He has not worked more than 240 days. The candidates who have completed more than 240 days their names were kept in the panel for future appointment. He is aware of this fact, as he has also worked as Chief Personnel Officer for few years. Therefore the I party is not entitled for regularisation and his service was not a continuous one.

16. The gist of the cross-examination made to the two witnesses by the learned advocate for these workman can be summarised as follows :

"The reference in the cross-examination of the MW 1, is made of respect of MW 2. Since he has stated that he do not know when the workman was appointed and the period he has worked direction was given to the management to examine Guruprasad."

17. MW 2 Guruprasad, has stated he did not remember when the I party was taken as Casual Labourer and no attendance register were maintained even appointment registers are not maintained and he denied that this workman was working during 1989. He has admitted of maintaining Charge Vouchers to show the different expenses in the bank on different dates. There is a Charge register where the number are entered. He had no idea whether the weekly payment would be made to the I party on Charge Vouchers. He has denied that the wages used to be paid once in a week by noting in the Charge Vouchers. He has also stated that the I party have no worked more than 240 days in any given year.

18. Against this evidence the evidence of the workman in CR 120/97 is as follows :

"He has deposed that he has been engaged to work as a temporary Peon/Watchman/Sweeper w.e.f. 31-2-89. He worked in that capacity upto 20-11-93. His work was stopped on 20-11-93. He continuously worked from the date of engagement till he was stopped from work. He has worked under 3 managers, Guruprasad, Gopalakrishnan and Venkatesh Murthy. His wages used to be paid on the basis of daily wages, and sometimes he was asked to sign against rolls and they have paid half pay salary of Rs. 33. His signature is also used to be taken on debit vouchers. He has to establish that the payment used to be paid by debiting on vouchers, he has produced 21 number of vouchers marked as Ex. W-1. He has also produced a certificate W-2 evidencing that he has worked during 1991, 1992 and 1993. He has worked for more than 240 days which was reflected in Ex. W-2. The II party have not issued any notice before stopping work and they have also not paid any retrenchment compensation."

19. The workman in CR 145/97 also given identical evidence and further contended that he has worked upto 25-1-94, continuously. He has also worked 240 days and more, in a given year. He has also given names of the Manager for whom he has worked. He has also produced service certificate.

20. In the Cross-examination the common question asked to these workmen was that they have no appointment letter and also a suggestion that they have not worked for more than 240 days.

21. Ex. M-1 is Xerox copy of the Original duly certified shows the number of days worked by one of the workman and also the wages paid to him in Ex. M-2. Ex. M-3 is a extract of the register showing the number of days worked by the workman in CR 120/97.

22. The documents produced by this workman are the charge vouchers for the year 1993 and a service certificate. The service certificate Ex. W-2 shows that he has worked 53 days during 1991, 37 days during 1992 and 179 days during 1993. The Charge Vouchers is covered for the year 1993 only.

23. Now coming to workman in CR 145/97, we have given the benefit of Ex. M-3 a statement showing the number of days this workman worked and Ex. M-2, the statement of salary paid and Ex. M-1 the attendance register extract.

24. We cannot dispute the authenticity of these documents and only defect we found is that the II party have not produced the payment vouchers made during earlier periods. According to them some of records to the earlier period is not available as after taking note of the payments which was in the year 1991-1993, these records are not available.

25. Both Oral and Documentary evidence made available in these disputes demonstrate that this workman were employed as a Casual Labourers and their work confined to an availability factor. They have not worked for more than 240 days in any given year.

26. It is submitted by the learned counsel for the I party that this workman filed an application directing the II party to file payment vouchers and other attendance particulars for the year 1991-92 and since the II party has not produced

the same there is no impediment for this Court to adopt an adverse inference against the II party.

27. It is true that Section 25F is not applicable as these workmen have not worked continuously as defined under Section 25B of the Act. Therefore there is no legal obligation for the II party to issue a notice of termination fixing one month or payment in lieu of the notice and thereafter pay 15 days salary for each completed month.

28. The judgement relied by the I party in AIR 1976 SC 1111 and the Judgement in AIR 1986 SC 152 is not on any help to the facts and circumstances of this case. To have the benefit of 25F should be established and proved that there was retrenchment as defined under Section 2(oo) of the act and also the workman should satisfy the principles laid down in the Section 25(b) of the act.

29. In the later case referred to above as the workman worked 240 days continuously and therefore the striking of his name in the Muster Rolls held to be an act of retrenchment.

30. In Delhi Development Horticulture Employees' Union V/s. Delhi Administration and others, Volume 83 FIR 149, the Supreme Court refused to accept the claim for the regularisation even for long service to the permanent post as the incumbent shall make available the statutory requirement attracted to that post.

31. In State of MP and another V/s. Darambir 1998(6) SEC 145, the Supreme Court laid down the law that if a person holds a particular post in a substantive capacity or temporarily or adhoc is a question which directly relates the status.

32. The Madras High Court, in Dr. Sivan Arul V/s. Indian Airlines, 1998 (4) CCN 293 was observed that where the appointment is contractual even working for a period of 7 or 8 years does not confer a right to be regularised.

33. The Banking institution have categorised the workman upto the stage of Temporary Sub-staff. Their eligibility depends on their antecedents and the Seniority which also covers the age and Educational qualification. Unless these requirement are present a Temporary Casual Employee cannot claim either regularisation or reinstatement. The Casual employment is generally made to substitute work of a permanent employee if he is absent on any of the grounds, and also the work of a temporary nature as per the existences of requirements. In view of this and also due to the fact there is no termination of employment in the legal sense. The following order is made.

#### ORDER

34. The references are defective, there is no question of termination of services as shown in the points of dispute. The attempt of these workmen is to seek for regularisation from back door entry. Therefore both references are rejected. (Dictated to the L. D. C., transcribed by him, corrected and signed by me on 22nd September, 1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 1999

का.आ. 3137.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार मेट्रो रेलवे कलकत्ता के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार का 05-10-1999 को प्राप्त हुआ था।

[संख्या एल-41011/02/99- आई आर. (बी-1)]  
जी. रॉय, डेस्क अधिकारी।

New Delhi, the 5th October, 1999

S.O. 3137.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Metro Railway, Calcutta and their workman, which was received by the Central Government on 5th October, 1999.

[No. L-41011/2/99 IR(B-I)]  
G. ROY, Desk Officer

#### ANNEXURE

#### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 20 of 1999

Parties:

Employers in relation to the management of Metro Railway, Calcutta.

AND

Their workmen

Present:

Mr. Justice A. K. Chakravarty  
Presiding Officer

Appearance:

On behalf of Management  
Mr. L. K. Chatterjee, Advocate.  
On behalf of Workmen  
Mr. S. Paul, Advocate.  
State: West Bengal.

Industry: Railway.

#### AWARD

By Order No. L-41011/2/99/IR(B-I) dated 13-5-1999 the Central Government in exercise of its powers under section 10(1)(i) and (2A) of the Industrial Dispute Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the action of the Metro Railway, Calcutta in denying regularisation of services of 160 contract labours as per attached list is justified and fair? If not, to what relief these 160 contract labours are entitled?"

2. When the case is called out today, both the parties are represented by their learned Advocates. An application is filed on behalf of the union praying for passing necessary orders on the ground that the union under misconception of law raised the dispute before this Tribunal and the reference accordingly be treated as bad and liberty be given to the union to raise the dispute in the appropriate forum.

3. In the aforesaid circumstances, since the sponsoring union is not interested in proceeding further in this matter, this Tribunal has no other alternative but to pass a "No Dispute" Award.

4. A "No Dispute" Award is accordingly passed with liberty to the union to take appropriate steps in the proper forum.

This is my Award.

Dated, Calcutta,

The 16th September, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का.आ. 3138:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अन्वय में, केन्द्र सरकार स्टेट बैंक ऑफ इंडिया के प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, भुवनेश्वर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-1999 का प्राप्त हुआ था।

[संख्या एल-12012/287/95-आई आर-(बी-1)]

जी. रॉय, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3138.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 06-10-1999.

[No. L-12012/287/95-IR(B-I)]

G. ROY, Desk Officer

## ANNEXURE

INDUSTRIAL TRIBUNAL, ORISSA,  
BHUBANESWAR

## PRESENT :

Si H. Mohapatra, O.S.J.S. (Sr. Branch), Presiding Officer, Industrial Tribunal, Orissa, Bhubaneswar.

Industrial Dispute case No. 18 of 1996 (Central)  
Dated, Bhubaneswar, the 22nd day of September, 1999.

## BETWEEN

The management of State Bank of India, At[P.O.]  
Dist : Rayagada (Orissa).

... First Party Management

## AND

Their workman Sri Uma Charan Behera,  
Clerk, State Bank of India,  
Rayagada Branch,  
At : Gandhi Nagar-2,  
P.O.]Dist : Rayagada (Orissa).

... Second Party-workman.

## APPEARANCES :

Sri Ajit Rath, Advocate—For the First Party—  
management.

Sri S. K. Patnaik, Advocate—For the Second  
Party—Workman.

## AWARD

The Government of India in the Ministry of Labour  
in exercise of powers conferred upon them by Clause

(d) of Sub-Section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No.—L-12012/287/95-IR (B-I) dated 26-3-96 :—

“Whether the action of the management of State Bank of India in dismissing the services of Shri U. C. Behera, Clerk of Rayagada Branch is lawful and justified? If not, to what relief the workman is entitled to?”

2. The case of the second party, briefly stated, is that he joined the State Bank of India in the year 1971 as a Cashier and on the relevant date i.e., on 7-6-77 he was working in the Current account counter. On the sad date a customer namely, Sri P. C. Padhi holding S.B. A/c. No. 2421 had handed over his pass book to Sri Banchhanidhi Misra, Cashier of the bank together with a pay-in-slip for a sum of Rs. 250 to deposit in his account. It is alleged that a sum of Rs. 1,500 was withdrawn from the account on 7-6-77 through the withdrawal slip. According to the second party, he was no way connected with the Saving Bank transactions. Sri P. C. Padhi lodged a complaint with the Branch Manager on 15-6-77 alleging that the withdrawal of Rs. 1,500 on 9-6-77 was not done by him. On receipt of the allegation a preliminary enquiry was conducted and an F.I.R. lodged in Rayagada P.S. on 5-7-77. In the preliminary enquiry nothing came out suggesting the complicity of the second party in the alleged transaction. The decision to take up the preliminary enquiry was also behind the back of the second party. In course of investigation the police seized the documents of the bank including the specimen signature card of the constituent and the admitted writings of the Counter clerks. During the pendency of the investigation the authorities of the bank obtained the opinion of Sri A. R. Samajdar, a hand-writing expert. The admitted writings of the second party were sent to the expert for comparison with the withdrawal slip and the hand writing expert submitted a report on 18-2-78 noticing similarities in the writing of letters appearing in the withdrawal slip with the writings of the workman. He however suggested for further investigation. The workman was suspended by office order dtd. 3-8-78 after lapse of about 14 months of the occurrence when the results of police investigation in G. R. Case No. 246 of 1977 was being awaited. On 7-12-78 the workman was charge sheeted on allegation that he had withdrawn Rs. 1,500 from the S.B. Account of Sri P. C. Padhi fraudulently. Further particulars of the charge were wanting as required under the provisions of Section 521(10) of the Shastry Award. The second party workman gave his explanation denying the charge. Enquiry Officer was appointed. After some delay the enquiry commenced on 28-1-80. Both the management and the workman adduced evidence. There was absence of material as to how the second party could have access to the specimen signature card of the account holder so as to utilise it for committing the forgery. The withdrawal slip having been duly passed there was no reason to believe the allegation of the account holder and punish the second party. Despite want of evidence implicating the second party in the charge, the enquiry concluded with a



finding of guilt of the second party-workman. According to the second party, the enquiry was contrary to the principles of natural justice and material documents on which the report of the hand writing expert was based having been withheld, the second party was grossly prejudiced in his defence which included non-rendition of an opportunity to adduce rebuttal evidence. It is urged that there being no iota of evidence other than the frail report of the hand writing expert, the enquiry officer was obliged to accept the plea of innocence of the second party. Alternatively it is contended that the tentative findings of the expert could not be utilised as conclusive with regard to the charge against the second party-delinquent. The Police submitted final report in the G.R. Case on 9-3-81 and no process was made by the bank challenging the investigation nor the report of the hand writing expert who drew inferences of culpability was made available to the police. The second party on conclusion of the enquiry submitted his second show cause and the disciplinary authority without assigning any reason and without considering the explanation submitted, passed orders dismissing the second party from service. The appeal filed against the order of dismissal also failed. The second party approached the Hon'ble High Court. In Civil Revision No. 7191 arising out of O.J.C. No. 295 of 1984 the Hon'ble Court directed re-disposal of the appeal by a reasoned order. Contrary to the direction of the Hon'ble Court, the Appellate authority rejected the appeal by a cryptic order. The Hon'ble Court again interfered with the Appellate order in O.J.C. No. 9251 of 1992 and demanded a fresh disposal of the appeal giving reasons as per order dtd. 8-4-93. Finally the appeal got disposed of on 9-10-93. The copy of the enquiry report was supplied late and the appeal order suffered from grave errors of record. It is pleaded that the findings of guilt being based on suspicion and conjecture are perverse and can not be the basis for an order of dismissal. Pleading grave prejudice for non-supply of the copy of the enquiry report for a long time, it is contended that the punishment imposed is liable to be quashed. The domestic enquiry having been held in contravention of the principles of natural justice and the provisions of Clause-521 of the Shastri Award is liable to be interfered with. The punishment imposed is said to be disproportionate and unjust in view of the paltry sum involved. It is also contended that after the acceptance of the final report by the S.D.J.M. it was highly improper for the departmental authorities to arrive at a different view. The second party approached the Hon'ble High Court in O.J.C. No. 2615 of 1994 after disposal of the appeal on 9-10-93 and was directed to approach the Labour Court for redressal of his grievance and hence the reference. The second party other than challenging the order of his dismissal, has sought for a direction for refund of Rs. 1,500 deducted from his salary with interest.

3. The management represented by the Chief Manager State Bank of India, Ravagada Branch, Rayapada filed the written statement denying the version of the workman. According to the management, the second party was working as a Clerk and on the relevant dates, namely, 7-6-77 and 9-6-77 he was attached to the Current Account Counter of the branch adjacent to the Savings Bank Counter. On 7-6-77 the amount

holder P. C. Padhy holding S.B. Account No. 2421 handed over his pass book alongwith cash of Rs. 250 and a pay-in-slip to one Bauchanidhi Misra, then working as the Cashier for depositing the amount in his account with instruction that Sri Misra should retain the pass book until it is collected by the account holder. On 9-6-77 a sum of Rs. 1,500 was withdrawn from the S.B. Account of the said account holder on presentation of a withdrawal slip. As per the Bank's practice when a pass book is presented either for withdrawal or deposit to the bank it is returned to the account holder after entries are made on the same day and when the pass book is not collected by the customer by the end of the day's business, the particulars of the pass book retained by the bank are noted in a register named 'Over night pass book retention register'. In the instant case as the pass book was not collected after deposit of the amount by Sri Bauchanidhi Misra on behalf of the account holder Sri Padhy and as the particulars thereof were not entered in the over-night pass book retention register it was presumed that the pass book was missing. The Account holder Sri Padhy on 15-6-77 made a complaint before the Branch Manager alleging **unauthorised withdrawal of Rs. 1,500** from his account on 9-6-77. A preliminary investigation was conducted whereafter an F.I.R. was lodged in Rayagada P.S. on 5-7-77. As the second party workman was involved in a fraud case relating to one M. L. Prasad and as on the relevant date he was working in an adjacent counter of the S.B. Counter and had access to the pass book, as a preliminary step, the admitted hand writing and signature of the second party were sent to the hand writing expert for comparison with the disputed hand writing and signature in the withdrawal slip. It was only after examination of the report of the hand writing expert, the same having clearly suggested that the workman may be the author of the withdrawal slip and the signatures appearing therein are of the workman, a disciplinary proceeding was taken-up and charge sheet was sent to him calling upon him to show-cause. The assertion of workman that the charge sheet was not exhaustive as per the requirement of Para-521(10) of the Sastri Award is denied. The workman was placed under suspension on 3-8-78 and a departmental proceeding was started in compliance of the provisions appearing in paragraph 521(3) of the Sastri Award after one year of the lodging of the F.I.R. as the workman was not placed on trial on the allegation made in the F.I.R. The enquiry was ordered only a month after the reply to the charge sheet was received and Sri S. C. Sen was appointed as the enquiry officer. On Administrative grounds the enquiry officer was changed and as the relevant documents had been seized and were in police custody there was unavoidable delay in the conduct of the enquiry. Such delay, according to the management, did not cause any prejudice to the workman. It is pleaded that the management's failure to prove the report of the hand writing expert in the criminal case and not submitting a protest petition after submission of the final report by the Police have no bearing on the legality or propriety of the disciplinary action which is an independent action of its own. The management denied that the enquiry was illegal or mala fide or was any way perfunctory. After conclusion of the enquiry second show-cause was submitted by the workman and the plea of the second party that it was

not considered by the disciplinary authority is denied. On conclusion of the proceeding the order of dismissal was communicated in the letter dated 6-7-82 to the Branch Manager who was the immediate authority of the workman for communication to him. The management while admitting of certain orders passed by the Hon'ble High Court has brought on record the absence of any specified plea by the workman that the enquiry proceedings were vitiated. The management denied the plea of summary rejection of his appeal by order dtd. 9-10-93, as misconceived. There was no error of record with the Appellate Authority which disposed of the appeal against the workman. In answer to the plea that the findings of guilt recorded against the workman were based on surmises and conjectures it is pleaded, the same is based on evidence placed on record and is entirely in accordance with law. The management has denied violation of the principles of natural justice and the provisions of the Sastri Award appearing at paragraph-521 in the conduct of the enquiry. It is pointed out that the findings of the hand writing expert were based on photo copies of the forged documents. The management has denied that it owed any obligation to make available copy of the hand writing expert's report to the Police investigating into the case. The management has asserted that the findings of the hand writing expert was intimated to the police and the failure of the police to act on such report does not in any way weaken the bank's case that there was forgery in the withdrawal of Rs. 1500 from the account of Sri Padhy. It is thus pleaded that the domestic enquiry and the order of dismissal that followed the same and the orders in appeal were passed in accordance with law and are not vitiated. In these premises, it is pleaded that there is no scope for interference with the orders of the enquiry and disciplinary authority dismissing the second party workman from service.

4. On the basis of the pleadings of the parties, the following issues are settled :—

#### ISSUES

1. Whether the action of the management of State Bank of India in dismissing the services of Sri U.C. Behera, Clerk of Rayagada Branch is lawful and justified?
2. To what relief, the workman is entitled?

#### ISSUE NO. 1 :

5. As may be evident in the pleadings, the workman who was dismissed from service following a departmental enquiry held against him has challenged the correctness and legality of the findings of the enquiry and the order of dismissal passed against him. He also challenged the domestic enquiry being in violation of the principles of natural justice. He alleged that the enquiry proceeded against him was without due regard to the provisions of Clause-521 of the All India Industrial Tribunal Bank Disputes Award referred to as Sastri Award. The relevant provision of Clause-521 of the Sastri Award is reproduced below for convenient reference :

"521—A person against whom disciplinary action is proposed or likely to be taken should in the first instance, be informed of the particulars of the charge against him, he

should have a proper opportunity to give his explanation as to such particulars. Final orders should be passed after due consideration of all the relevant facts and circumstances."

The different sub-clauses of the said Clause enumerates the procedure to be adopted in disciplinary enquiry against employees charged of major or minor misconduct. In the hearing the management examined the Chief Manager of State Bank of India, Rayagada Branch who spoke of the complaint received on 15-6-77 from one customer, namely Sri Prafull Chandra Padhy regarding unauthorised and fraudulent withdrawal of a sum of Rs. 1500 from his Savings Bank Account on 9-6-77. According to him, Sri A. K. Mohapatra enquired into the allegation and on completion of the enquiry, submitted a report which is marked Ext. 29. The forwarding letter is marked as Ext. F. He further deposed that in the enquiry the impugned withdrawal slip was produced in original by the Police, the copy of the withdrawal slip is marked as Ext. G. He further deposed to the fact that the second party workman had applied leave for three days on 14-6-77, the copy of which is marked Ext. H. The copy of the application of the customer Sri Padhy for opening a S.B. account is proved as Ext. K. It is elicited in the version of M.W. No. 1 that there was a preliminary investigation by the department in respect of the charge, sometime in August, 1977. An F.I.R. was lodged in connection with the case before the police and that the police seized the original documents as per the seizure list marked Ext. J on 27-3-78 including the withdrawal slip which is alleged to be forged. M.W. No. 1 further admitted that the police did not return the documents to the bank thereafter and he further has gone to admit that he had not seen the originals of the documents, copies of which he proved in the case. M.W. No. 1 joined the Rayagada branch of the Bank in February '96 and he had admittedly no direct knowledge about the alleged incident that took place long prior to his joining. The management has produced charge sheet marked Ext. A and the copy of the orders of the Appellate authority marked Ext. C and copies of two orders of the Hon'ble Court passed in O.J.C. No. 9251 of 1992 and 2615 of 1994 as Exts. D and E respectively.

As against the evidence adduced by the management the workman has produced a series of documents and examined himself as W.W. No. 1. He admitted of his dismissal from service as per order dated 19-7-83 on charges of fraud. The incident is alleged to have taken place on 9-6-77 when one P.K. Rath drew a sum of Rs. 1500 from the account of Sri P.C. Padhy. It is elicited in his evidence that the Branch Manager of Jeypore held a preliminary enquiry into the allegations after Sri Padhy made a complaint which is admitted by M.W. No. 1 as indicated above. Admittedly, the second party was working in the current account counter when the alleged fraud took place in the S.B. account of Sri Padhy. He has deposed that he was not informed of the enquiry on 5-7-77. He further deposed that an F.I.R. was lodged in Rayagada P.S. regarding the alleged fraud and withdrawal of a sum of Rs. 1500 from the account of Sri Padhy. During investigation of the criminal case the Cashier, Counter Clerks and

other Clerks of the Bank were examined by the Police. He further admits that they gave their specimen writings in the withdrawal slip in the name of Sri Padny at the instance of the Police for their examination in the Forensic Laboratory. His hand writings in the leave applications and cheques are said to have been sent to a private hand-writing expert at Calcutta. He admits of having been suspended on 3-8-78. The enquiry was held on 28-1-80 by Sri Mohapatra as deposed to by M.W. No. 1. The enquiry continued for about a year. In the meantime the G.R. Case (criminal case) ended with the final report. The certified copy of the order of the S.D.J.M. accepting the final report in the G.R. Case No. 256 of 1977 as per order dated 26-3-81 is proved as Ext. 31. The copy of the proceedings of the enquiry is proved as Ext. 10 on admission of the parties and it is in the evidence of W.W. No. 1 that none of the witnesses deposed against him in the enquiry. Referring to the proceedings of the enquiry he further deposed that the S.B. account Clerk B. Murali Mohan admitted of having received the pass book and withdrawal slip in dispute from Sri P.K. Rath, the bearer. He further deposed that he was held guilty of the charge solely on the basis of the report of the Hand Writing Expert and was dismissed. It is revealed in his evidence that though he requested for supply of copies of the disputed documents on the basis of which the charges were levelled, he was denied the access. One of the copies of the applications addressed to the enquiry officer dated 14-8-80 calling for the copies of the disputed documents is proved as Ext. 32. According to him, he is innocent and after being served with the second show-cause notice on 2-5-83 on conclusion of the enquiry he gave his explanation on 7-7-83. He further stated that on revocation of the order of suspension dated 29-7-83 he joined his duties whereafter he was served with the order of dismissal. He has complained of denial of the opportunity of personal hearing which he had applied for in the appeal presented against the order. In cross-examination he admitted that he availed of the opportunity of cross-examining the witnesses produced in the enquiry and that he was served with the copies of the reports of the Hand Writing Expert.

6. Turning to the enquiry, Sri B. Murali Mohan, the S. B. Account Clerk appeared as defence witness No. 1 in the domestic enquiry and with reference to the impugned withdrawal slip stated that the bearer of the withdrawal slip was P.K. Rath. He further deposed that giving of the 'X' mark in the reverse of the withdrawal slip suggested that the bearer of the slip was asked to put his signature at the indicated space. In regard to the suspicious circumstance regarding absence of entry in the retention register of pass book he replied that he had returned the pass book to Sri Rath, the bearer of the withdrawal slip. He amplified his version further when he deposed that after receiving payment, the bearer asked for the pass book and he returned the same to him. In the face of the direct evidence of instantaneous return of the pass book, the absence of entry in the retention register cannot be utilised to cast doubt on the involvement of member of staff of the bank far less the workman, the current account clerk. D.W. No. 2 was the Cashier in the Bank payment counter on

the relevant date when the transaction took place. He admitted that the amount of Rs. 1500 as per the withdrawal slip was paid to Sri P.K. Rath. He ruled out the possibility of the second party transacting business or receiving payment for and on behalf of Sri P.K. Rath. It is further revealed in the evidence of Sri P.C. Padny, the depositor that he had handed over the pass book to Sri B.N. Misra, the Cashier of the branch on 6th June, 77 together with a pay-in-slip and a cash of Rs. 250 and on 7th June, 77 the deposit was made. It is elicited in the evidence of Sri P.C. Padny, the customer that he used to deposit money through his friends working in the bank, namely, the second party-workman and B. Murali Mohan and others. The proceedings of enquiry, Ext. 10 reveals that while there is no direct evidence regarding withdrawal of a sum of Rs. 1500 by the second party-workman, it also rules out the possibility of his involvement in the transaction. The issue of a token which is usually not done in respect of the bank employees and the insistence of B. Murali Mohan and T. S. Achary, the Cashier that the amount was paid to Sri P.K. Rath rules out the possibility of the involvement of the second party in the alleged transaction. B.N. Misra, the Cashier was examined by the second party as a witness in the departmental enquiry who corroborated the version of the depositor that the pass book together with the pay-in-slip and a sum of Rs. 250 was handed over to him the day before it was deposited, and that the pass book was not collected back by him. The Hand Writing Expert is examined as a witness by the management who supported his version borne out in the reports, marked Exts. 2 and 3. The Hand Writing Expert has claimed that he was trained as a Hand Writing Expert in the Bengal C.I.D. between the years 1940 and 1942 on completion of training he was declared as a Hand Writing Expert. He worked as a Hand Writing Expert in the C.I.D. till the end of 1947 whereafter he left the branch to join the general police. He was eventually promoted to the I.P.S. On retirement he resumed in practice as a Hand Writing Expert and was enrolled in the L.R.'s. panel. He has been examining cases since then. He admitted in cross-examination that he does not have any certificate that he was an Expert in Hand writings. Despite the absence of certificate the version of the Hand Writing Expert merits credence to the extent it is worth. As has been indicated he noticed similarities of form in respect of four letters appearing in the admitted writings of the second party with the writing appearing in the questioned documents, namely, the withdrawal slip. In cross-examination he admitted that similarities of form are likely to occur and in some cases bound to occur between the writings of two or more people when the writing is in the same hand or script. He further explained that similarities of form may be accidental or simulated but similarities of features prompted and guided by the writing habit are the personal habits of the writer and are sure to identify him and distinguish him from others. He further deposed that agreement in movement, style, etc. does not indicate identity of the writer. Explaining the concluding remarks given in Ext. 3 that further investigation into the matter was indicated, he has stated that it was the departmental enquiry which was meant by his observation regarding further investigation. Whatever be the explanation tendered during enquiry by the Hand Writing Expert the two reports

Exts. 2 and 3 do not and cannot conclusively establish the authorship of the second party in the impugned documents. The disciplinary enquiry, is *ex facie* shorn of any corroborative feature implicating the second party as the perpetrator of the fraud and this has not any way driven home the charges of guilt of the delinquent. The evidence collected during enquiry rather excludes the possibility of the complicity of the second party, in as much as, he was a staff member known to each who dealt with the withdrawal slip before it was cleared for payment in favour of P. K. Rath, the bearer.

7. The copy of the complaint made by Sri P. C. Padhy dtd. 5-6-77 which formed the basis of the proceedings against the second party is proved as Ext. 1 wherein he had alleged that a sum of Rs. 1,500 was withdrawn from his account on 9-6-77 without his knowledge and consent by practice of forgery. It is contended on behalf of the workman that the findings of guilt on the charge of fraud recorded against him, is based on no evidence except the opinion of the Hand Writing Expert which cannot be acted upon without corroboration. It is pleaded that the alleged forged document, namely, the withdrawal slip was examined by the Hand Writing Expert of the State Government and that the second party, delinquent had supplied his specimen writings and signatures to the police for comparison with the disputed documents and the G. R. case having ended in a final report which was accepted by the S.D.J.M., Rayagada and no protest petition having been filed, the management is not free to act on the solitary report of its own Hand Writing Expert to fasten the liability on the second party. The withdrawal slip received its due scrutiny by the bank officials including the Accountant who compares the signature with the specimen available with the bank before passing it for payment. In this connection, the workman relies on the decision of the Supreme Court in *Bhagwan Kaur Vs. Shri Maharaj Krishna Sharma & others*, reported in AIR 1973 Supreme Court 1346 wherein the Apex Court held that the evidence of a handwriting expert unlike that of a fingerprint expert, is generally of a frail character and its fallibilities have been quite often noticed. The Supreme Court cautioned that the conclusions based upon mere comparison of handwriting must at best be indecisive and yield to the positive evidence in the case. In an earlier decision in the case of *Ishwari Prasad Misra Vs. Mohammad Isa*, reported in AIR 1963 SC 1728 the Supreme Court reduced the stature of findings of a handwriting expert to mere opinion evidence which can never be conclusive. In the light of the consistent views, it is worthwhile to scan the views of the handwriting expert as the entire case hinges on his reports. It may be worthwhile to revert to Ext. 10, the proceedings of the enquiry and Ext. 11, the report of the enquiry which bears truth to the defence version that though the second party had access to the S. B. Account counter where the alleged fraud was practised he could not have and in fact did not physically take the cash from the bank. In other words, the enquiry revealed that one P. K. Rath whose signature found place in the back of the withdrawal slip received the cash from the cash counter. There is no evidence that P. K. Rath, the receiver of the cash was either a fake or fictitious person far less is there

any evidence connecting the second party with said Sri Rath. Coming to the two reports of the handwriting expert one dated 12-12-77 and the other dated 18-2-78 which are marked as Exts. 2 & 3, it may be worthwhile to note that Sri A. R. Samajdar, the expert examiner of questioned documents whose services were taken by the management, compared the signatures reading 'Prafulla Chandra Padhi' in the application for opening account, the specimen signature card and the letter of complaint dtd. 15-6-77 and those on the obverse and reverse of the withdrawal slip dtd. 9-6-77 and found that the writings in the withdrawal slip are slower in speed and duller in appearance. Despite the pictorial resemblance there appeared to the handwriting expert considerable divergencies in minute writing features. On the basis of these findings he was of the opinion that the signatures reading 'Prafulla Chandra Padhi' on the obverse and reverse of the withdrawal slip dated 9-6-77 are not genuine signatures of the alleged writer but are imitations by the free hand process. He further found certain common features between the signatures reading P. K. Rath on the reverse of the withdrawal slip and the body writings of the same and came to conclude that it is quite possible that they are in the same man's handwriting on a subsequent occasion the same handwriting expert gave his report dtd. 18-2-78 which is marked as Ext. 3. The handwriting expert in continuation of his earlier view and on re-examination of the documents in the light of the letters under reference compared the writings and signatures of the withdrawal slip dtd. 9-6-77 alleged to have been signed by 'Prafulla Chandra Padhi' with the writings of two leave applications of the second party-workman dtd. 8-9-77 and 12-9-77 and other documents purporting to have been written by him and found that there were significant agreements in respect of minute individual writing characteristics between the two. He particularly took into consideration the letters 'd', 'n', 'a' and 'h'. He thus came to the conclusion that body writings and the signature on the obverse and the signature purporting 'Prafulla Chandra Padhi' on the reverse are in the handwriting of the workman. He however advised a thorough investigation in the matter, which according to him was called for to lend support to his observation which on the face of them are tentative and inconclusive.

8. It is contended on behalf of the workman that on a reading Exts. 2 and 3 no liability can be stretched for the withdrawal of the amount, to the second party. It is revealed in Ext. 2, the report of the handwriting expert that he found the body writings and the signatures reading 'Prafulla Chandra Padhi' both on the obverse and reverse of the withdrawal slip dated 9th June, 1977 are in one man's handwriting. The handwriting expert as per Ext. 3 also noticed similarities in the signature reading 'Prafulla Chandra Padhi' on the obverse and reverse of the withdrawal slip dated 9th June, 1977 which as per his version was imitated. The version of B. Murali Mohan and T. S. Achary completely excludes the possibility of the second party handling the withdrawal slip and drawing the proceeds thereunder. Ext. F, the report of the enquiry bears clear recitals that the complicity of the second party in the alleged fraud could not be established by any live account of the incident. Mere past acquittance of the second party with the drawer, namely, 'Prafulla

Chandra Padhi does not lead to an irresistible conclusion that it is the second party alone and none else who was responsible for the fraud. As has already been indicated, the services of other members of the staff working on one floor were taken by Sri Padhi in transacting business with the branch of the bank. Fraud in terms of a criminal charge does require proof beyond reasonable doubt but there is hardly any warrant for a view that the standard of proof in a disciplinary proceeding which concludes with an order of dismissal of an employee casting a stigma and throwing him out of the job is any way lenient. Here is a case where, though pleaded, no past bad conduct is proved against the workman. The findings of the handwriting expert which per se are inconclusive are rendered tentative when he expressly desired further investigation. There is no other evidence connecting the second party with the charge. The enquiry that was conducted failed to secure any corroborative evidence to the findings of the expert. On the contrary evidence was that the second party was no way connected with the alleged fraud. In such circumstances, there is no escape from the conclusion despite the fact that the adjudication relates to a disciplinary proceeding that the management, the accuser has failed to discharge the onus of proof required in the case of major misconduct. The acceptance of the final report in the criminal case as borne out in Ext. 31 without protest is a piece of circumstance suggestive of absence of a prima facie case against the second party-workman and viewed in that angle the charge must be held unfounded so far as the workman is concerned.

9. Learned counsel for the workman relying on a decision in *Anil Kumar Vs. Presiding Officer & others*, reported in AIR 1985 1121 contends that in the instant case the report of enquiry is cryptic and in devoid of discussion of the evidence recorded during the enquiry. It is also silent why the evidence produced by the delinquent did not appeal the enquiry officer or why it was considered not creditworthy. The Apex Court confronted with such report was of the view that where the disciplinary proceeding affects the livelihood and is likely to cast a stigma it must be held in accordance with the principles of natural justice. The minimum expectation is that the report must be reasoned one. A perusal of the enquiry report marked Ext. 29 on behalf of the workman and Ext. F marked on behalf of the management manifestly is devoid of appreciation of the evidence adduced by the parties in the enquiry. On the other hand it smacks of a bias in favour of the view of the handwriting expert which on the face of it is inconclusive. Applying the facts of the case to the law laid down by the Apex Court as above, I have no hesitation to hold that the order of dismissal is liable to be set aside.

It is admitted that a preliminary enquiry was conducted shortly after the alleged incident and long before framing of the charge against the delinquent by Mr. V. V. S. Rao, the then Branch Manager, Jeypore who examined the concerned employees. Rule 521(9) of the Sastri Award requires that when it is decided to take disciplinary action against an employee such decision shall be communicated to him within three days thereof. The report of the preliminary enquiry did not accompany the charge sheet that was served on the

second party-delinquent about a year and half after the alleged occurrence. The Supreme Court in the decision in *State of U.P. Vs. Mond, Sharif*, reported in AIR 1982 SC 937 was of the view that withholding of the statements of witnesses recorded in the preliminary enquiry in course of the domestic enquiry causes serious prejudice to the delinquent. The reason why the report of the preliminary enquiry is withheld in the case is not far to seek. The withholding of the material document permits the Tribunal to draw an adverse inference that had the report of the preliminary enquiry been produced it would have gone counter to the charge of alleged fraud levelled against the delinquent-workman. In a decision in *Kashmath Dikshita Vs. Union of India*, reported in AIR 1986 SC 2118, the Apex Court struck down an order of dismissal holding that the action of the Government in refusing to supply copies of statements of witnesses examined at the stage of preliminary enquiry preceding the commencement of the enquiry was violative of Article 311(2) of the Constitution and the Government servant having been denied a reasonable opportunity to defend himself, the order of dismissal was illegal. In *Rajinder Kumar Khindra Vs. Delhi Admn. Situation*, reported in AIR 1984 SC 1805 the Supreme Court was confronted with a case of dismissal of an employee against whom there was no evidence of participation in the conspiracy in the act of drawal of amount from the employer's account. The Supreme Court held that where there are findings in the domestic enquiry based on no evidence the same is liable for rejection as perverse. The Supreme Court held that it is well settled that where the findings of misconduct are based on no legal evidence and the conclusion is one to which no reasonable man would come the arbitrator appointed u/s 10-A or the Supreme Court in Appeal under Article 136 can reject such findings as perverse. The Apex Court summed up in observing that it is equally well settled that where a quasi-judicial Tribunal or arbitrator records findings based on no legal evidence and the findings are either his ipse dixit or based on conjectures and surmises, the enquiry suffers from the additional infirmity of non-application of mind and stands vitiated. The industrial tribunal or the arbitrator or a quasi-judicial authority can reject not only such findings but also the conclusion based on no legal evidence or if it is merely based on surmises and conjectures unrelated to evidence, on the ground that they disclose total non-application of mind. Where the order of dismissal is sought to be sustained on a finding in the domestic enquiry which is shown to be perverse and the enquiry is vitiated as suffering from non-application of mind, the only course open to the Court is to set aside the order. The relief of reinstatement is to be granted where there was nothing against granting the same. Needless to reiterate that the opinion of the handwriting expert shown of any corroborative evidence could not be acted upon to sustain a grave charge of fraud levelled against the second party-workman, particularly when the defence evidence of denial emanating in the version of the colleagues of the workman having ocular competence to the alleged occurrence has not at all been assailed.

Learned counsel for the second party contends that serious prejudice was caused to the second party in his defence in the disciplinary enquiry on account of withholding of material documents. It is pointed out by him

that while the second show-cause was sent as per Ext. 11 on 2nd May, 1983 which was received on 23rd May, 1983 the show-cause as per Ext. 13 was submitted on 7th July, 1983 and the dismissal order was passed on 29th July, 1983 as per Ext. 15. It is however seen in the order of dismissal dated 29th July, 1983 marked Ext. 15 that the entreaties of the second party reiterating his plea of innocence was not taken note of in the order of dismissal which bore absence of any extenuating circumstance for awarding of a lesser punishment. Thus, the order of dismissal passed by the disciplinary authority is per-se vulnerable on account of non-application of mind and non-consideration of the second show-cause for which opportunity was afforded to the second party.

Learned counsel for the management vehemently contends that the workman approached the Hon'ble Court time and again and also made a grievance of non-adherence to the principles of natural justice in the conduct of the enquiry but without any success and consequently this Tribunal is not free to hold that the second party was prejudiced in his defence and that the enquiry was vitiated for non-observance of the principles of natural justice. May it be stated that the Hon'ble High Court as per order in O.J.C. No. 9251 of 1992, Ext. D interfered with the order of the Dy. General Manager, the appellate authority dated 2nd April, 1992 directing the said authority to re-dispose of the representation of the petitioner by a speaking order giving him an opportunity of hearing. It is revealed in Ext. 20 that a Civil Review was carried against the order dated 18th May, 1990 in O.J.C. 295 of 1984 wherein the second party was directed to file a fresh representation before the appellate authority who was directed to dispose of the same expeditiously after considering the grievance of the petitioner. It was made clear in the said order that the authority shall not be influenced by the fact of dismissal of the writ petition. It is manifest in Ext. E, the certified copy of the order dated 26th August, 1994 in O.J.C. No. 2615 of 1994 that the second party-petitioner requested for permission to withdraw the writ application on the plea of approaching the Labour Court and the Hon'ble Court permitted the writ petition to be withdrawn. In the exercise of Jurisdiction under Articles 226 and 227 of the constitution the Hon'ble High Court has not hesitated to intervene in appropriate occasions until it left the second party petitioner free to secure redressal of his grievance in the forum constituted under the Industrial Disputes Act. The contention of the learned counsel for the first party management that the successive failure of the second party-workman to secure relief from the Hon'ble Court disentitles him to question the legality and justifiability of the order of dismissal does not sound to reason. This Tribunal under the Industrial Disputes Act is held to be appropriate authority to disputes pertaining to termination as has been affirmed by the Supreme Court in *Rajinder Kumar Kindra's case* (suora).

11. It is pointed out on behalf of the workman that non-supply of a copy of the enquiry report prejudiced him in the proceeding. Needless to mention that the report of enquiry was supplied to the delinquent workman on 1-9-93 by which time his appeals

were rejected. In this connection, reliance is placed on a decision of the Supreme Court in *State of Maharashtra Vrs. Bhai-Sankar Avalram Joshi and another*, reported in AIR 1969 SC 1302. In the said decision the Supreme Court observed in relation to a Govt. servant that it would be in very rare cases indeed in which it could be said that the Govt. servant was not prejudiced for non-supply of the report of the enquiry officer. I find no reason to differ with the observations made by the Apex Court that non-supply of the copy of the enquiry report was prejudicial to the defence of the second party workman disabling him to raise his fingers on the so-called findings of the report which on the face of it were not supported by the evidence recorded during enquiry. In the matter of status the second party cannot be distinguished from a Govt. servant and the law laid down in the above-cited decision applies in all fours to the facts of the case. Non-discussion of the evidence adduced by the parties in the enquiry renders the report of enquiry a vulnerable piece of document liable to be interfered with.

12. In the result, I hold that the enquiry suffered from denial of reasonable opportunity to the second party workman in his defence and the report of enquiry is wholly unreasoned and unsustainable in law being devoid of a dispassionate appreciation of evidence. Non-appreciation of the show-cause by the disciplinary authority recording the order of dismissal rendered such order questionable. In the facts and circumstances, the order of dismissal is not supportable in law.

#### ISSUE NO. 2 :

13. In view of the findings in the foregoing issue, I am inclined to hold that the second party is entitled to be reinstated. There is whisper in the evidence that the second party is not wholly unemployed. The plea of the management that the second party is an employee of "Behera Book Store" is denied by the workman in his evidence in cross-examination. Nonetheless he admits that in the intervening period he is found in the said Book Store. It is not unlikely that having lost the job in the bank he has been assisting the business in the Book Store for some reward of remuneration. The management, the bank has gone without the services of the workman upon his dismissal. With the practice of fraud the trust that the bank enjoyed with the people must have substantially been eroded though evidence remains inconclusive as to who the culprit was. The inordinate delay on the part of the workman to raise the dispute which can be related to the order of the Hon'ble High Court dated 26-8-94 (Ext. E) where by the writ petition was withdrawn seems to have layed the foundation of the present proceeding which on the face of it is very much belated. This conduct in not seeking relief in appropriate time is liable to be viewed adversely against a claim of back wages. In the given facts it may amount to aiding unjust enrichment if back wages is awarded in full in favour of the second party-workman. In the facts and circumstances, while directing reinstatement, I hold that the second party is entitled to half the back wages. He is also entitled to refund of



Rs. 1500/- representing the shortage recovered from him.

The reference is answered accordingly.

SRI H. MOHAPATRA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का. आ. 3139.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार स्टेट बैंक आफ ट्रान्स्वोर के प्रबन्धता के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्तर्गत में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, कोलम के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 07-10-1999 को प्राप्त हुआ था।

[संख्या एल-12012/163/94-आई आर (बी-1)]  
जी. रॉय, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3139.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kollam as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Travancore and their workman, which was received by the Central Government on 07-10-1999.

[No. L-12012/163/94-IR (B-I)]  
G. ROY, Desk Officer

#### ANNEXURE

#### IN THE COURT OF THE INDUSTRIAL TRIBUNAL, KOLLAM

(Dated, this the 16th day of September, 1999)

PRESENT :

SRI C. N. SASIDHARAN, Industrial Tribunal  
IN

INDUSTRIAL DISPUTE NO. 13/95

BETWEEN :

The Managing Director, State Bank of Travancore,  
H.O. Poojappura, Trivandrum.

(By Sri N. Krishnan Kutty, Advocate,  
Trivandrum)

And

Sri K. Rajendran Nair, Sandhya Bhavan, T.C.  
19/395, Veliyaattu Vikakom, Vattavila,  
Thirumala P.O., Trivandrum.

(By Sri B. Muralaeeharan Nair, Advocate, Trivandrum)

#### AWARD

This industrial dispute has been referred to this Tribunal by the Government of India as per Order No. L-12012/163/94 IR (B-I) dated 28-8-1995 for adjudicating the following issue :

"Whether the action of the management of State Bank of Travancore in terminating the services of Sri. K. Rajendran Nair with effect from 17-9-'93 is legal and justifiable ? If not what relief the workman is entitled to ?"

2. The case of the workman Sri. Rajendran Nair is briefly as under : Sri. Rajendran Nair has been working as gardner at the management Bank since January, 1990 on consolidated payment of Rs. 90 P.M. In addition to the maintenance of garden he was engaged in full time work such as bringing of tea, peon work etc. on all days including Sandays. In spite of repeated requests he was not made permanent in the same post or in any other suitable post. While so one Sri. Sasidharan Nair, a gardner who had been engaged under similar nature at the Medical College branch of management was made permanent and posted there itself as gardner-cum-peon. Some temporary drivers were also made permanent in between while no decision had been taken on the request of the workman. He is the sole bread winner of his family with his wife and two major daughters along with his aged mother. He has studied upto 8th Standard and crossed the age limit for getting employment in Government service. The management has absorbed daily wages employees of canteen at the Head Quarters of management as peons in the Class-IV category without considering age, qualification etc. On 17-9-1993 the chief manager of the branch did not permit the workman to attend duty from that day onwards. He was not given any written notice or informed any sufficient reason. The workman had already put in a continuous service of four years on monthly wages without break and the present action of the chief manager is highly irregular, illegal, arbitrary and against principles of natural justice. The action of the management is mala fide also with ulterior motive. He has every right to get himself absorbed in the service with the benefit of backwages. The garden in the Head Office was given on contract basis for the last more than ten years. The workman is eligible for the post of gardner in the said garden as he was qualified and has got sufficient experience. The prayer is to reinstate him in service as gardner or any other suitable job in Class-IV category with all benefits.

3. The case of management is briefly as under : The management is a Public Sector Bank which has several branches. The branch at Poojappura, Trivandrum involved in this dispute does not maintain any garden. However, few potted plants have been fixed in front of that branch which were allowed to be watered by the workman according to his convenience either in the morning or in the evening. Watering such plants is not a part of the work of the Banking business nor it is incidental to the work in the Bank. The workman was being paid Rs. 3 per day for watering the plants and he was engaged in January 1990 to September, 1993. Payment was made every 15 days since daily payment was not practical. His work was not being supervised or controlled by any person of the Bank. He used to come and do the work according to his convenience and it was not compulsory that he has to come and do the watering work every day. He was engaged for that work by the manager of that branch and paid

out of the sundry expenses which the manager was authorised to meet. The workman has never been appointed as the employee in the Bank and as a matter of fact there was no post of gardner sanctioned for that branch. He was never appointed as an employee of the Bank through regular channel of appointment. A person is employee in the Bank only if appointed through approved appointment procedure. The manager of the said branch was not competent to make appointment of a person in any capacity or in any post in the Bank. The workman cannot be treated or considered as a workman within the scope of Sec.2(6) of the Industrial Disputes Act, 1947. The workman was told that his services are no longer required and accordingly he was not engaged from 17-9-1993. This cannot be construed as termination of employment. Subsequently no person has been engaged for watering the plants. The management denies the allegation of workman that he was engaged in a full time work apart from gardening. In the Medical College branch there was a permanent post of gardner and there is a garden attached to the branch. The position of drivers is also different. With regard to canteen employees the submission of management is that the canteen concerned was being managed by the staff welfare committee and when the committee gave up the management of the canteen and the canteen was entrusted to the contractor, the eligible canteen employees were taken as peons, sweeper etc. in the Bank's service. These persons have been serving in the canteen continuously for more than 13 years and they were given employment only in the available vacancies. The workman had not put in four years continuous service as alleged. The management denies all other allegations of the workman. According to the management he is not entitled to any relief.

4. The workman has filed a replication denying the case of management and re-affirming his contentions.

5. The evidence consists of both oral and documentary. The workman examined himself as WW1 and Exts. W1 to W10 have been marked on his side. One more witness was examined on his side as WW2. The management has examined one witness in support of their case as MW1 and Ext. M1 has been marked.

6. The case of the workman in brief is that he was appointed by the management Bank as gardner-cum-peon and worked there more than 240 days but the management terminated his services without notice. But according to the management at Poojappura branch there is no post of gardener and the workman was not appointed through the regular channel of appointment in the Bank and he was not an employee of the Bank connected with the Banking business. In the light of these contentions the burden is heavily upon the workman to establish that he was appointed by the Bank in the regular channel and worked there in connection with the business of the Bank. But the workman has not adduced any evidence much less documentary evidence in this regard. On the other hand the management has adduced evidence in support of their case.

7. Admittedly the workman was engaged by the branch manager who has admittedly no authority to make appointment in the Bank. Ext. W3, copies of representations addressed to the Managing Director

of the Bank by the workman for regularisation in the service of the Bank, he has specifically stated that he was a temporary employee for planting flowering plants and watering the same. In these representations there is no whisper that he had worked as peon or done any work in connection with the Banking business. No doubt he has deposed before this Tribunal that in addition to the garden work he was attending to various kinds of peon's work and he has designated himself as gardener-cum-peon. It is also true that he has produced two vouchers showing that he was paid for cleaning the stock room and one voucher for going to collect some items from outside. For cleaning the stock room he was paid paltry amount of Rs. 30 which itself shows that he was engaged for such works only casually. In the absence of any claim in W3-series representations that he was doing the work of peon he can only be considered as a casual employee for watering the plants as mentioned in the vouchers produced by him particularly on the admitted fact that there is no post of gardner in that branch and there is no concrete evidence of the existence of a garden. The remuneration paid by him is only Rs. 90 which shows that the payment was only Rs. 3 per day that will also show that he was not doing any full time work. Ext. W8 and W9-series vouchers show that he was getting collic charges for watering the plants under 'Account Sundrys' which also proves that he was engaged casually and the work was not full time work as claimed by him. Moreover it further establishes that he was getting remuneration out of the petty cash expenses to be incurred by the manager of the Bank. The evidence on record supported by Ext. W3-series W8 and W9-series will clearly establish that he was doing daily rated work of watering the plants and he was not getting any monthly salary. The items of work performed by him as stated in Ext. W3-series cannot be said to be work connected with the Banking work when there is no sanctioned post of gardner. It is also not established that there was a garden at the Poojappura branch as claimed by him. Even assuming that there was a garden as claimed, the work of the garden cannot be said to be work connected, with the Banking business.

8. For my above view I seek support from a decision of the Karnataka High Court in Karoor Vvsya Bank Employees Union V. Central Government Industrial Tribunal, Bangalore (1973 FJR 1993). That was a case in which the Bank employed person to perform casual work off and on. His name was not borne on the muster rolls of the bank. The court held that the workman in this case was an employee only to do work of casual nature and not the work connected with the work of the Bank namely Banking work. The court has further held that since the workman had not proved that he had worked for 240 continuous days in a year without interruption he cannot claim benefit of Sec. 25-F. The learned counsel for the workman brought to the notice of this court a decision of the Supreme Court in J. K. Cotton Spinning and Weaving Mills Co. V. Land Acquisition Tribunal of India (AIR '67 SC 737) in support of the contention that the work of gardner is incidental to the Banking work because the work was supervised by the Bank. At the outset I may state that there is not even an iota of evidence in the case before me that the work of watering the



plant done by the workman was being supervised by any officer of the Bank. Further in the said decision certain gardeners were engaged by the management mills and it was established in that case that their conditions of services were determined by the mills, their work was supervised & controlled by the mills and the payment was made by the mills. Hence, the court held that the gardeners must be held to be engaged in operations which are incidentally connected with the main industry carried on by the mills and were therefore workmen within Sec.2(s) and also Sec. 2 of the U.P. Industrial Disputes Act. In the absence of any evidence regarding supervision of the work done by the workman and also that his service conditions were determined by the management Bank this decision cannot be said to have any application here.

9. The next question is whether he was an employee of the management Bank appointed through the regular channel. As stated above even according to the workman he was appointed by the branch manager and the workman has not proved that the branch manager has any authority to appoint the workman as an employee of the bank. No guidelines, instructions or orders authorising the Bank manager to appoint gardener or other employees in the Banking service have been produced by the workman in this case. On the other hand he has admitted that he was not appointed by the proper authority. The management witness as MW1 has categorically deposed that the appointments in the Bank are being done through the regular channel namely Banking service recruitment Board, Employment Exchange etc. Reliance was placed on Ext. M1 circular of the Indian Banks Association dated 27-10-90 regarding appointments in subordinate cadre. Quoting the notification issued by the Ministry of Finance, Government of India stating that the recruitment to the subordinate cadre not only to be notified but also to be filled through the Employment Exchange alone and other permissible source can be tapped only if Employment Exchange concerned issued a non-availability certificate. Ext. M1 further advised Public Sector Banks to be guided accordingly. There is no dispute that he was not appointed through the Employment Exchange. It is also not proved that he has filed any application for recruitment in the Bank. Ext. M1 circular specifically directs the Banks to resort to appointments in subordinate cadre through Employment Exchange only. Further there is no dispute that there is no post of gardener in the particular branch nor was there any vacancy in the post in which the claimant was engaged. It is thus clear that the workman was not appointed through the regular and permissible channel in the service of the Bank but his engagement is through the backdoor.

10. The learned counsel for the workman would contend that Ext. M1 circular dated 27-10-1990 has no statutory force as it is the one published by the Indian Bank's Association and not by any department of Government. Hence according to the learned counsel it is not necessary to act upon it. In Ext. M1 the notification of the Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi of the year 1978 regarding appointment in the subordinate cadre is mentioned. The clarification of the Government to follow the 1978 notification is also 3078-GI/99-14.

stated. The workman has no case that there was no such notification and the Government has not made any such clarification. In these circumstances the present argument of the learned counsel deserves only to be rejected.

11. At this juncture it is necessary to consider a decision of the Supreme Court in *Union Bank of India V. N. Hargopal* (AIR 1987 SC 1227) as pointed out by the learned counsel for the workman in support of the argument that the Employment Exchange Act does not oblige any employer to employ those persons only who have been sponsored by Employment Exchange. In that case the question considered was entirely different and there is nothing to show that there was any guidelines issued by the Government of India for making appointments through Employment Exchange alone. But in the instant case the Government of India has issued specific directions as stated in Ext. M1 circular to make appointments in subordinate cadre through Employment Exchange only. On these grounds the above decision, according to me, has no application here.

12. As stated above as the workman came through the backdoor and engaged outside the regular channel of appointment he cannot claim any benefit or right from the employer. He was not legally and properly appointed by competent authority. He has not been appointed as per Ext. M1 circular and as per the prescribed procedure in respect of subordinate employees. Since the workman was engaged outside the regular channel of appointment by the branch manager who has no authority to make appointment, makes the position clear that the engagement of the workman was only through the backdoor. Such engagement by incompetent persons is not valid appointment. Hence such a person cannot claim the status of an employee of the Bank. This view is supported by the following decisions of various courts.

13. The Supreme Court as early in the year 1992 considered the question of regularisation of some employees who were employed on daily wages for implementing a particular programme by the Delhi Administration in *D.D.H. Employees Union V. Delhi Administration* [1992 (1) L.L.N. 939]. Subsequently the said programme implemented through Village Panchayat. The petitioners claimed regularisation by Delhi Administration. The court turned down the claim and held in para. 16 that for regularisation there must be regular and permanent post or it must be established that although the work is of regular and permanent nature, the service of appointing and keeping the workers on ad hoc or temporary basis has been resorted to, to deny them the legitimate benefits of permanent employment. The court made further observations in para-23 which are worth quoting as below :

23. "Apart from the fact that the petitioner cannot be directed to be regularised for the reasons given above, we may take note of the pernicious consequences to which the direction for regularisation of workman on the only ground that they have put in work for 240 more days, has been leading. Although there is Employment Exchange Act which requires recruitment on the basis of registration in the

Employment Exchange, it has become a common practice to ignore the Employment Exchange and the persons registered in the Employment Exchanges, and to employ and get employed directly those who are either not registered with the Employment Exchange or who though registered are lower in the long waiting list in the employment register. The Courts can take judicial notice of the fact that such employment is sought and given directly for various illegal consideration first for temporary periods with technical breaks to circumvent the relevant rules, and is continued for 240 or more days with a view to give the benefit of regularisation knowing the judicial trend that those who have completed 240 or more days are directed to be automatically regularised. A good deal of illegal employment market has developed resulting in a new source of corruption and frustration of those who are waiting at the Employment Exchange for years. Not all those who gain such back door entry in the employment are in need of the particular jobs. Though already employed elsewhere, they join the jobs for better and secured prospects. That is why most of the cases which come to the Courts are of employment in Government departments, public undertakings or agencies. Ultimately it is the people who bear the heavy burden of the surplus labour. The other equally injurious effect of indiscriminate regularisation has been that many of the agencies have stopped undertaking casual or temporary works though they are urgent and essential for fear that if those who are employed on such works are required to be continued for 240 or more days have to be absorbed as regular employees although the works are time bound and there is no need of the workmen beyond the completion of the works undertaken. The public interests are thus jeopardised on both counts."

The High Court of Madras has considered a case of casual workman and the alleged retrenchment in the case between English Electrical Co. of India Ltd. and Industrial Tribunal, Madras (1997 1 LLJ 141). In paras 28 and 30 the court held that a casual employee employed for a long period of time does not automatically become a permanent employee. In para-37 the court has pointed out that the fact that a casual employee has put in 240 days of service does not automatically entitle him to the status of a permanent employee. With regard to the retrenchment it is held in para 42 that in the case of casual workman there is to be inelieible evidence that the employer had made up his mind not to give any work at all.

The Apex Court in *State of UP and others V. Aiyaz Kumar* (1997 (1) LLJ 1204) considered the case of a daily wage employee. The question of regularisation was the issue there. The Apex Court found that there is no statutory rule to regularise the service of daily wage employee and also that the method of appointment in that case on daily wage basis was not proper inasmuch as no applications were called for. The

court accordingly found the direction issued by the Division Bench of the High Court to regularise the service as illegal.

The Supreme Court in *Aswani Kumar and Others V. State for Bihar* (1997 (2) SCC-1) has considered validity of appointments in excess of sanctioned posts. There are large number of Class-III and Class-IV employees appointed in Tuberculosis Eradication Scheme against a smaller number of posts which was done without following the recruitment procedure. The court in para 12 pointed out that there cannot be any employee without any vacancy or post available on which he can work. In paras 13 and 14 it was held that if the initial entry itself is unauthorised and is not against any sanctioned vacancy, the question of regularising the incumbent on such a non-existing vacancy would never survive for consideration and even if such purported regularisation or confirmation is given it would be an exercise in futility. It was further held that any posting which is dehors the budgetary grant and on a non-existing vacancy would be outside the sanctioned scheme and would remain totally unauthorised. Further no right would accrue to the incumbent of such an imaginary or shadow vacancy. The court has finally held the appointments void and also said that the appointments were bad because of omission to follow the recruitment procedure.

The High Court of Calcutta in *Dr. S. Banerji V. State of West Bengal* (1998 3 LLN 782) has considered appointments on ad hoc basis as Lecturers in Government Colleges without following the recruitment rules as provided in the statutes and not made through Employment Exchange or through advertisement. Quoting an earlier decision of the Apex Court reported in (1995 1 SCC 138) the High Court held in para. 6 that appointments made in violation of a statute is nullity. The court has pointed out in the same para. that mere prolonged or continuous service does not ripen into regular service to claim permanent or substantive status as held by the Apex Court in *State of Orissa V. Dr. Prari Mohan Misra* (1996 (2) LLN 520). In para. 8 it is stated that the Apex Court has also clearly held that a person who has come in through backdoor must go through that door as reported in AIR 1994 SC 1654 and 1996 SC 3230. The prayer of the petitioners in that case before the Calcutta High Court was to absorb them on permanent basis and the court held that the prayer has no justification.

The Supreme Court in *M. S. Parishad U.P. V. A. K. Misra and Others* (1994 (2) LLJ 977) has considered the right for regularisation of persons worked on ad-hoc assignment in non-sanctioned posts. The court in para. 4 held that it is difficult to accord for them the status of workmen on the analogy of the provisions of Industrial Disputes Act, importing the incidence of completion of 240 days work. Further pointed out that it is not appropriate to import and apply that analogy in an extended or enlarged form there. It is also stated that the completion of 240 days does not under law import the right to regularisation.

In *Krishna Yadav V. State of Harvna* (1994 (4) SCC 165) the Apex Court considered selection of Taxation Inspectors. There was allegation that

the appointment was vitiated by fraud, nepotism, favouritism, and arbitrariness. On the allegations the Central Bureau of Investigation made investigation and reported acts of favouritism, selection without interview tampering with final records, forging etc. The court has accordingly cancelled the entire selection ignoring the plea that innocent candidates should not be penalised for the misdeeds of others. In para. 20 it was held that individual innocence has no place as "fraud unveils everything".

The Apex Court in the case between State of Himachal Pradesh and Suresh Kumar Verma (1996 1 LLN 299) has considered the question of appointment on daily wages. In para. 4 it was held that the appointment on daily wages cannot be conducted for regular appointments which would be a backdoor entry detrimental to the efficiency of service and would breed seeds of nepotism and corruption.

The Allahabad High Court in State of U.P. V. Labour Court (1999 LLR 439) has considered the claim of a daily wage employee for appointment. In para. 5 the court has held that the workman in this case was employed on daily wages on day-to-day basis and as such refusal to appointment him did not amount to retrenchment and as such there is no violation in not engaging him on and from 1-9-1989. It has further held that the daily and casual workers who are employed in disregard of all recruitment rules cannot be allowed to enter Government service through the backdoor.

The Supreme Court again in Union of India and Others V. Bishamber Dutt [1997 (2) LLJ 381] has considered the status of part time employees not appointed on regular basis according to the rules. In para. 3 of the judgment the court has held that since they are not appointed on regular basis in accordance with rules, the direction issued by the Tribunal to regularise the service is obviously illegal. It was contended in that case that the workers were regularly working for a long time and hence they are entitled to regularisation. The court has rejected that contention holding that unless they are appointed on regular basis according to the rules after consideration of the claims on merits there is no question of regularisation of the service.

14. The learned counsel for the workman would contend that the management has admitted in the written statement that the workman has worked as gardener and as a casual worker. Therefore he is to be considered as a regular worker of the Bank and entitled to get the relief prayed for. In support of this argument reliance was placed on four decisions of various courts. The first authority cited is that of the Calcutta High Court in Thepan Kumar Jana V. General Manager, Calcutta Telephone (1981 LAB I.C.NOC 68). One of the questions considered in that case was whether the petitioner in that case is a workman as defined under Sec. 2(s) of the Industrial Disputes Act. He was working as casual labourer and the court held that he will be a workman as defined in the Act on the facts involved there. The second authority cited is a decision of the Rajasthan High Court in Sahwant Singh Yadav V. State of Rajasthan (1990 LIC 1451). There also

the question considered was whether the petitioner in that case was a workman as defined in the Act. The third authority cited is that of the decision of High Court of Kerala in Kerala Private Motor and Mechanical Workers Federation V. State of Kerala and another (1993 1 LLJ 401). In that case the question arose as to whether a person employed on temporary or permanent basis or on probation will be a workman within the definition. The next authority cited is the decision of the High Court of Madras in Chief Engineer (Irrigation) V. N. Natesan [1973 (2) LLJ 446]. In that case also the main question considered was whether a temporary workman is a workman within the meaning of Sec. 2(s) of the Act and also the violation of Sec. 25-F of the Act. In the case before me question whether the claimant in this case is a workman as defined in the Act does not arise for consideration as that is not at all a point here. The question for consideration is whether he was appointed through proper recruitment channel and whether he had worked as an employee of the Bank. Those questions were already found in the negative by me. It was also found that there is no post of gardener. Hence the aforementioned decisions have no application here. Therefore the above contention on behalf of the workman deserves only to be rejected.

15. The next contention of the learned counsel for the workman is that the management failed to produce documents requested to be produced by the workman to establish his case and hence adverse inference is to be drawn. According to the learned counsel the workman has done the work of Peon as per Ext. W2 and W5 vouchers in addition to the work of gardener and worked more than 240 days. It is also the argument that Ext. W1-series vouchers prove the existence of garden and gardener. In order to prove this case of the workman he requested for production of some records according to the learned counsel. As held by me above the main question to be considered is whether the workman was appointed through proper channel of appointment and whether he had worked in connection with the banking business. Admittedly at the Poojappura branch of the Bank there is no post of gardener. It has also come out in evidence that the workman came into the picture only through the backdoor as he was engaged by the branch manager who has no authority for doing so. In the light of these specific findings the above submission of the learned counsel for the workman for production of records is not at all relevant. The workman has no case that the records sought for by him would prove existence of post of gardener or that he was appointed through proper channel of appointment and worked in connection with the Banking business. Further in Ext. W3 representation sent by him to the Bank for reinstatement he has stated that he was working in the garden and there is no whisper that he had worked as Peon. Of course in Ext. W2 and W5 it is stated that he was paid for arranging the record room and that he was deputed for collecting some papers from outside. But that can be considered as a casual engagement for two days only. In these circumstances the non-production of records would not cause any prejudice to him. Hence the question of taking adverse inference does not arise here.

16. The learned counsel for the workman brought to the notice of this Tribunal a decision of the Supreme Court in *Gopalkrishnaji V. Muhammed Haji Latheef* (AIR 1968 SC 1413) in support of his argument for drawing adverse inference. In that case the court has held in para. 5 that a party in possession of best evidence which would throw light on the issue in controversy withholding it, when the court ought to draw adverse inference against him notwithstanding that onus of proof does not lie on him. This observation cannot be made applicable here because in the present case the documents said to be produced would not prove the real issue in dispute.

17. The next question to be considered is whether the claimant was retrenched as contended by the learned counsel for the workman. It was argued that the termination of service of the workman amounts to retrenchment and since he was not given notice it is a case of violation of Sec. 25-F of the Act. At the outset I may state that such a contention has not been raised as a pleading in this case. It is now settled position of law that what is not pleaded cannot be considered or allowed to be proved as held by the Supreme Court in *Shankar Chakravarti v. Liptania Biscuit Company* [1979 (2) LLJ 194]. In that case the court considered the case of termination of service of an employee in which the question arose as to whether the Labour Court should grant opportunity to the employer to adduce evidence in the absence of request. The court held in the negative and observed thus in para. 20 at page 206 :

"When we examine the matter on principle we would point out that a quasi-judicial Tribunal is under no such obligation to acquaint parties appearing before it about their rights more so in an adversary system which these quasi-judicial Tribunals have adopted. Therefore, it is crystal clear that the rights which the employer has in law to adduce additional evidence in a proceeding before the Labour Court or Industrial Tribunal either under S. 10 or S. 33 of the Act questioning the legality of the order terminating service must be availed of by the employer by making a proper request at the time when it files its statement of claim or written statement or makes an application seeking either permission to take a certain action or seeking approval of the action taken by it. If such a request is made in the statement of claim, application or written statement, the Labour Court of the Industrial Tribunal must give such an opportunity. If the request is made before the proceedings are concluded the Labour Court or the Industrial Tribunal should ordinarily grant the opportunity to adduce evidence. But if no such request is made at any stage of the proceedings, there is no duty in law on the Labour Court or the Industrial Tribunal to give such an opportunity and if there is no such obligatory duty in law failure to give any such opportunity cannot and would not vitiate the proceedings."

However I shall consider the present argument in the light of the facts and circumstances of the present case. This is the case of a workman whose appointment is not regular or proper and hence cannot claim the benefit of retrenchment as per Sec. 25-F of the Act. The first aspect to be considered is whether there is any retrenchment. As held above the workman was not appointed through the regular channel of appointment and he was engaged as a daily rated workman by a person who has no authority to do so. It was come out in evidence that since there was no necessity of watering the plants, the management informed him not to come for work. That being the position there cannot be any retrenchment, legally and as such Sec. 25-F cannot be invoked. He was engaged as a daily rated workman and his appointment is not through proper and regular appointment procedure. Such a person cannot claim that he was retrenched and for such retrenchment Sec. 25-F is to be followed.

18. For the above view I seek support from the following decisions. The High Court of Kerala has considered the case of alleged retrenchment and whether Sec. 25-F will attract in the case between *Eramallor Service Co-operative Bank Ltd. V. Labour Court* (1971 FJR 20). In page 24 of the decision the court held as below :

"In order to appreciate this line of approach to the issue, it is necessary to consider the scope of Sections 25-F and 2(oo) of the Industrial Disputes Act. Section 2(oo) suggests that the person who claims the benefits of Section 25-F must be one validly appointed in the service of the employer. The service must be capable of being continued until any of the events envisaged under clauses (a), (b) and (c) of Section 2(oo) happens. In short, the person who claims the benefit of Section 25-F shall establish that he is in the service of the employer having been appointed validly. It should be remembered that it is the contract of service that is terminated. A service cannot be terminated unless it is capable of being continued. The Supreme Court has held so in *Workmen of Bangalore Woollen, Cotton and Silk Mills Co. Ltd. V. Bangalore Woollen, Cotton and Silk Mills Co. Ltd.* (1962) 21 FJR 538; AIR 1962 SC 1363."

The High Court of Kerala in *Urakam Service Co-operative Bank Ltd. V. P. Sujatha* (Vol. '73 FJR 89) has considered a case of termination of service. In that case the respondent was appointed on probation as attender subject to approval of Deputy Registrar. The Registrar declined approval and the service of the respondent was terminated accordingly. The Labour Court ordered reinstatement. The High Court set aside the award holding at page 91 that the order making appointment "subject to the approval of the Deputy Registrar was wrong in law and the order of appointment must be understood as an order which never came into force as the condition precedent in terms of the rule has not been specified. This observation is squarely applicable in the case before me as there was no legal appointment in the case of the

workman. So such a workman cannot claim that he was retrenched and for such retrenchment Section 25-F is to be followed.

The Supreme Court has considered termination of daily wage and attraction of Section 25-F of the Act in *Humanushu Kumar Vidyarthi V. State of Bihar* (1976 FLR 237). In that case the petitioners were admittedly not appointed in accordance with rules but were engaged on the basis of need of the work on daily wage basis. Subsequently they were terminated. The court at page 238 held that the petitioners are temporary employees working on daily wages and not appointed in accordance with the rules and hence the disengagement from service cannot be construed to be retrenchment under the Act. It was further observed that the concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees. Further since they are only daily wage employees and have no right to the post, the disengagement is not arbitrary.

The High Court of Kerala in *Indian Air Lines V. Sebastian* (1991 1 LLN 247) has considered the question whether casual employees on daily wage basis who worked between 1979 to 1982 and not completed more than 89 days in any year are entitled to the benefits of Sec. 25-H of the Act as well as Sec. 25-F of the Act. The court found in the negative.

The High Court of Bombay in *Executive Engineer Y. M. Project Division V. Anand and another* (1998 2 LLJ 77) has considered the termination of workmen who were engaged on daily wages. The court referring an earlier decision reported in (1994 2 LLJ 977) (supra) held at page 93 that merely because 240 days have been completed in employment would not entitle an employee to be regularised and that it would be difficult to envisage for that the status of workmen on the analogy of the provisions of the Act importing the incidents of completion of 240 days of work. It was further pointed out that appointment on daily wage basis is not an appointment to a post according to the rules and that once state has framed the rules of recruitment state is bound to follow them. Again the court said the appointment on daily wages cannot be conduit pipe for regular appointment which would be backdoor entry detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is also pointed that even for Class-IV employees recruitment according to the rules is a precondition. The court has held that such employees engaged on daily wages and or on work charged establishment are not holding a post but doing the work of a transitory nature. The court has finally stated that there must be a post available and that the workers engaged on daily wages or temporary employees or for that matter even work charged employees in the absence of post their termination or disengagement from service cannot be construed to be retrenchment.

19. The learned counsel for the workman brought to the notice of this Tribunal the following decisions in support of the argument that the management has not complied the provision of Sec. 25-F of the Act while terminating the service of the workman and

hence the workman is entitled to be reinstated in service. I may state that on the facts, evidence and settled position of law I have already found that there was no termination as alleged. However I shall refer the decisions relied on by the learned counsel.

The High Court of Madras in *Chief Engineer (Irrigation) V. N. Natesan* [1973 (2) LLJ 446] has considered the case of termination of service of a temporary workman and the court in para 2 held that even a temporary workman is a workman within the meaning of Sec. 2(s) of the Act and such workman is entitled to retrenchment compensation in addition to one month's notice or one month's wages in lieu of notice. The Court pointed out that there is no difference between a permanent workman and a temporary workman for purpose of retrenchment of compensation. The High Court of Kerala in *Prabhalaran V. General Manager Kerala State Road Transport Corporation* (1981 KLT 164) has held that termination of temporary employees would constitute retrenchment though they are appointed for the duration of the time specified in the orders of appointment. In both these decision it is not known whether there was any dispute regarding the legality of appointment and the existence of sanctioned post. It is also not stated that the employees therein came into the service through backdoor. That being the position these two decisions according to me cannot be made applicable here.

The next authority cited is a decision of the High Court of Kerala in *Rajan Nair V. Indian Naval Canteen Service* (1985 KLT Short Note, Case No. 1). In that case the main question considered was regarding mode of determination of continuous service for the purpose of Sec. 25-F of the Act. In the case before me that question does not arise and hence this decision is not applicable here.

The High Court of Kerala in *Central Bank of India V. S. Sathyan* (1996 II KLT Short Note, Case No. 63), has also considered a case under Sec. 25-H and 25-F. There the point considered was regarding re-employments of retrenched workmen considering the period of service and giving preference to retrenched workmen over others. This decision is quite distinguishable and there is no similarity at all with the facts and circumstances involved in the instant case.

The Supreme Court in *Punjab Land Development and Reclamation Corporation Ltd. V. Presiding Officer Labour Court* [1990 (3) SCC 682], among other questions it was held that termination of service of a workman for any reason what so ever will be retrenchment even though he appointment is not regular. But it is not evident from the facts of that case that there was any dispute regarding existence of vacancy, sanctioned post and the nature of duties performed by the workman in connection with the work of the establishment. Moreover the Apex Court has taken entirely different view in later decisions mentioned above in support of the case of management regarding non-applicability of Sec. 25-F of the Act in the case of the workman. That being the position this decision also will not come to the rescue of the workman in the present case.

The next authority cited is the decision of the Supreme Court in *Surendra Kumar Varma V. Central Government Industrial Tribunal* (1981 (1) LLJ 386). In that case also the main questions considered were meaning of continuous service and retrenchment from temporary post. There also it is not stated whether there was any dispute regarding the validity of appointment and the nature of duties performed by the workmen. The Supreme Court in *Raina Singh V. Union of India* and another (1988 SCC (L&S) 170) has also considered the case under Sec. 25-F and 25-B of the Act. There it was held that Sec. 25 is applicable to termination of even a daily rated workman who had continuously served for the requisite statutory minimum period in a year. It was further held that termination of service of such a workman without complying with Sec. 25-F is illegal. Here also there is no dispute regarding the validity of appointment, period of service and also the nature of duties performed by the workman. There was also no dispute that the workman had continuously worked for more than 240 days in a year. The above two decisions are also distinguishable considering the facts involved therein.

The learned counsel has placed reliance on another decision of the High Court of Kerala in *Krishan Kutty V. General Manager, KSRTC* (1982 KLT 311). The question considered was whether temporary employees are entitled to the benefit of Sec. 25-F. The temporary employees were relieved for appointing permanent appointees recruited through PSC, was the issue in that case and it was held that temporary employees have preference over new Employment Exchange hands who are also temporary. This decision is also distinguishable in view of the facts involved there.

In the light of the above discussion I hold that those decisions relied on by the learned counsel for the workman cannot be made applicable in support of the claim of the workman in preference to the decisions supporting the case of management.

20. I shall now pass on to the other contentions advanced by the learned counsel for the workman. It was pointed out that the written statement filed on behalf of the management in this case is not by the competent authority and hence it cannot be acted upon. From the reference order it is evident that the management is that of the State Bank of Travancore represented by the Managing Director. The argument is that the written statement has not been filed by Managing Director of the management Bank. The claim in the case is not against the particular officer of the Bank but only against the Bank. The written statement has been filed for and on behalf of the Bank by a competent authority representing the Bank. Hence this contention is unsustainable. It is also contended that the evidence tendered on the side of the management is not by a competent person which is not acceptable. MW1, who is Deputy Manager in the Head Office of the management Bank has given evidence for and on behalf of the Bank. As stated above the present claim is against the Bank and hence the Deputy Manager is a competent person to give evidence for

and on behalf of the management. Therefore his evidence cannot be discarded as contended by the learned counsel.

21. The workman has a claim for regularisation in the service as permanent gardner or as a Class-IV employee. The issue for adjudication is regarding the justifiability of the termination of service of the workman and hence the claim for regularisation is outside the scope of the issue. Therefore this claim cannot be considered.

22. The learned counsel for the workman has pointed out that as per clause 20.6 of First Bipartite settlement 9.C of Second Bipartite settlement and clause 14.3 of Third Bipartite settlement the workman is entitled to an appointment in the Bank as he had worked in the Bank for more than 240 days. I have already held that he is not an employee of the Bank legally appointed through regular channel. The settlements referred to are binding only on the employees of the Bank and the management. The question whether the workman is entitled to an appointment under the provisions of Bipartite settlement is outside the scope of issue under reference. It is not proved that he has been appointed as per the Bipartite settlement and hence he cannot claim any remedy under the Bipartite settlement. The workman has no case that he had been appointed in terms of the Bipartite settlement or circular of the Bank. Admittedly there was no such appointment and then he had not become an employee of the Bank. Hence he is not entitled to any claim under the Bipartite settlements.

23. The workman is claiming regularisation relying on alleged regularisation of gardner in the Medical College Branch of the Bank and some drivers and canteen employees. As stated in the above para. the claim for regularisation is not covered under the issue referred for adjudication. Moreover it is not established that the gardner in the Medical College branch was appointed without following the appointment procedure. Further there is no dispute that there is regular post of gardner and there is a garden in the Medical College branch of the Bank. So the regularisation of the gardner in the Medical College branch cannot be relied upon by the workman as an example. Now with regard to drivers and canteen employees there is no evidence on record to show that the engagement of the workman or his working conditions and the circumstances for his engagement are similar to that of canteen employees and drivers. Therefore it is not possible to cite their cases in support of the claim of the workman for regularisation. It has come out in evidence that the canteen was run by the Employees Welfare Society and when they left the canteen it was taken over by a contractor. Thereafter when the contract system was abolished the canteen employees were given preference as Peons/Last Grade Employees. It is not proved otherwise by the workman. Even assuming that the management has committed wrong, that cannot be perpetuated or allowed to be continued as held by the Supreme Court in *Urmila Devi and others V. State of Bihar* and others (1999 SCC L&S 642). In that case the Apex Court considered regularisation of voluntary workers in Health Service and in para 2 it was observed that



simply because some persons were wrongly regularised, other persons similarly situated could not claim regularisation merely on that ground. The court has further pointed out that one wrong cannot be multiplied by another wrong. Therefore the claim of the workman on the ground stated above is devoid of merit.

24. According to the learned counsel for the workman there was vacancy in the Bank and even then the management has not considered his claim. Reliance was placed on an advertisement appeared in Kerala Kaumudi Daily Newspaper dated 30-10-1998 marked as Ext. W10 in this case. In page 5 of Ext. W10 it is stated that in State Bank of Travancore there exists 151 vacancies of Peons. MW1 has clarified that the management has not given any advertisement as seen in Ext. W10 and it is not proved otherwise. Moreover MW1 has stated that Bank has advertised vacancies and invited applications at times and if the workman had submitted application that would have been considered. The workman has not stated that he had submitted any application in response to any such advertisement made by the Bank. Further the workman was not an employee of the Bank legally appointed and he has not established that he is entitled to get any preference for appointment in the Bank. It is also not proved that there is any vacancy at present either as gardner or as a Class-IV employee in the Bank to give work to the workman. So giving direction to the Bank to appoint the workman is quite illegal as observed by the Apex Court in Himachal Road Transport Corporation V. Sri Dinesh Kumar (1996 (2) LLJ 760). In that case Administrative Tribunal directed the Transport Corporation to appoint dependents of deceased employees in regular clerical posts when vacancies were not available. The court in para 8 observed that in the absence of a vacancy it is not open to the corporation to appoint person to any post. Further it will be a gross abuse of the powers of a public authority to appoint persons when vacancies were not available. The court finally held that directions given by the Administrative Tribunal were totally unauthorised and illegal. Hence this contention of the workman before me is also unsustainable.

25. The workman has a prayer that he may be reinstated as Class-IV employee in the Bank. In view of what is stated above he is not entitled to reinstatement. Moreover he is not a Class-IV employee and either in the issue referred for adjudication or in the claim statement filed before this Tribunal it is not stated that the workman has been appointed or was he working as a Class-IV employee. In these circumstances it is not possible to declare him as a Class-IV employee as it is not contemplated in the issue referred. Therefore this prayer of the workman is only to be rejected.

26. For the foregoing reasons, I hold that the workman in this case was not an employee of the Bank legally appointed through the regular channel and the management has not terminated his services as alleged. Hence the workman is not entitled to any relief as prayed for much less reinstatement or regularisation.

An award is passed accordingly.

C. N. SASIDHARAN, Industrial Tribunal

## APPENDIX

Witnesses examined on the side of the Workman.

WW1. Sri K. Rajendran Nair.

WW2. Sri R. S. Sasidharan Nair.

Witness examined on the side of the Management.

MW1. Sri J. Ajith Kumar.

Documents marked on the side of the Workman

Ext. W1—series (4 nos.) Vouchers in the name of the workman issued from the Bank on various dates.

Ext. W2. Slip in the name of the workman issued from the Bank dated 11-1-1994.

Ext. W3-series (3 nos.) Photostat copies of representations addressed to the Managing Director of the Bank from the workman on 8-11-1991, 30-11-1992 and 26-5-1993.

Ext. W4. Voucher in the name of the workman issued from the Bank dated 14-9-1993.

Ext. W5. Voucher in the name of the workman issued from the Bank dated 7-10-1993.

Ext. W6. Photostat copy of representation addressed to the Managing Director of the Bank from the workman dated 17-9-1993.

Ext. W7. Photostat copy of Government of India Notification dated 10-8-1990.

Ext. W8. Voucher in the name of the workman issued from the Bank dated 28-2-1991.

Ext. W9-series (3 nos) Vouchers in the name of the workman issued from the Bank and dated 20-5-1991, 18-7-1991 and 25-11-1991.

Ext. W10. Kerala Kaumudi Daily Newspaper dated 30-10-1998.

Documents marked on the side of the Management.

Ext. M1. Photostat copy of circular issued from the Indian Bank Association Personnel Department, Bombay, to Chief Executives of all Public Sector Banks dated 27-10-1990.

नई दिल्ली, 7 अक्टूबर, 1999

का. आ. 3140.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्नाटक बैंक लिमिटेड के प्रबन्ध तंत्र के संबन्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-1999 को प्राप्त हुआ था।

[संख्या एल-12012/143/91-आई आर (बी-III)/(बी-I)]

जी. राय, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3140.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial

Tribunal. Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Karnataka Bank Ltd. and their workman, which was received by the Central Government on 06-10-1999.

[No. L-12012/143/91-IR (B-III)/(B-I)]  
G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL CUM LABOUR COURT: BANGALORE

DATED : 29-9-1999

PRESENT :

JUSTICE R. RAMAKRISHNA  
PRESIDING OFFICER

C. R. NO. 66/98

#### I PARTY

B. Rajaram Shetty,  
S/o Sri J. Shamaraya Shetty,  
Residing at Hridaya Degula,  
Laxmindra Nagar,  
Kunjibettu,  
Udupi-576102.

#### II PARTY

Karnataka Bank Ltd.,  
Head Office,  
Kodialbail,  
Mangalore-575 003

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/143/91-IR (B.III) dated 20-8-1998 on the following schedule:

#### SCHEDULE

"Whether the action of the management of Karnataka Bank Ltd. in terminating the services of Shri B. Rajaram Shetty w.e.f. 12-1-85 is legal and justified. If not, to what relief the workman is entitled."

2. Two important questions that requires consideration in this case is as follows:—

- Whether termination of employment under Section IV para 522 under Shastri Award for continuous absence of a workman requires any interference?
- Whether the action of the first party in raising an Industrial dispute after a considerable length of time confers any right for him to seek an adjudication on merits?

3. The admitted facts are that the first party workman joined this bank as a Probationary Clerk on 12-4-72. During 1982 (not shown in the claim statement) this workman was transferred to Kirimanjeshwara branch of the bank from Bantakal Branch. After reporting for duty this workman remained absent continuously on medical grounds and therefore, the management have terminated his services w.e.f. 29-12-84 after issuing a notice to this effect with 3 months salary in lieu of the notice and retrenchment compensation under section 25 F of the Act. It is also not in dispute that from 18-5-82 to 29-12-84 the first party has worked in the bank only for 53 days. The second party in their counter statement have highlighted the conduct of the first party in remaining absent without valid medical certificate and his sole intention to get retransferred from that branch by these acts as if he brings pressure to the management by remaining absent unauthorisedly.

4. Since to frame any additional issues there was no scope, the parties are directed to lead their evidence on the points of dispute and in accordance with the stand taken by them in their respective pleadings. The second party examined an officer of the bank to justify the action taken by the Management.

5. This witness who is presently working in the Human Resources and Industrial Relations in the head office and who is also incharge of looking after the leave matters gave the evidence on the basis of records and his acquaintance with the facts of this case.

6. This witness has deposed, during 1982 the Bantakal Branch recorded unauthorised absence from 18-5-82 to 16-7-82. Later the first party gave a leave application as per Ex. M1 without any medical certificate. Thereafter he was transferred to Kirimanjeshwara Branch. There he remained absent from 13-12-82 for a period of one month by giving a leave application. The bank insisted to produce a certificate from District Medical Officer for his absence of 196 days as per Ex. M3. He has reported for duty and requested for transfer. When the request was rejected, he remained absent from 3-2-83 and sent a telegram as per Ex. M6. He was again failed to submit MC from DMO as per Ex. M7. But this communication was not served to him as it was returned by the postal authorities. Thereafter the first party sent a letter dated 3-1-83 for 30 days leave. Again he was reminded to bring MC from DMO. The first party though received this letter, without caring much sent another letter dated 3-5-83 seeking permission for leave for one more month. He was once again reminded for MC as per Ex. M12 which was not served. One more letter dated 6-6-83 was sent as per Ex. M13 which was served to the party. One more letter dated 11-7-83 was sent by the second party directing the first party to join duty immediately and submit satisfactory explanation. This letter was returned unserved with a shara that the addressee is always absent. On 13-8-83 the first party gave a letter Ex. M15 for reporting to the duty without medical certificate. The second party sent a reply Ex. M16 directing him to produce the certificate within 3 days. Without complying, the first party sent a leave application for 15 days. He was once again reminded to send medical Certificate. He once again sent a letter for extension of leave. He was advised to resume duty within 10 days with Medical Certificate. Then the first party sent a letter showing his inability to produce a MC. He was once again reminded to send the MC by a letter Ex. M22. Thereafter the second party issued a notice Ex. M24 advising the first party to report for duty within 30 days. They have received a reply as per Ex. M25. Then the second party terminated the services and communicated the order to the first party.

7. The management also examined another manager as MW2 whose evidence shows that the first party doing private business at Triveni Ice Plant and he is also a partner in M/s. Shetty Chemicals which is being run since 1984. In fact the Shetty Chemicals obtained a loan from the very same bank and due to default a case was filed in OS No. 1/91 which is now pending before Debt Recovery Tribunal at Bangalore.

8. The workman was examined as WW1 but he tried to justify his remaining absence from the banking work as his health conditions not permitted to work at transferred place.

9. What we considered in this case is the tendency of this workman in disturbing the work of the bank by his acts which is not appreciable in the interest of banking activities. He has failed to prove that the management had any intention to cause inconvenience to him due to alleged trade union activities. On his own sake he has not produced any medical certificate justifying his action to remain absent unauthorisedly from the bank. The bank in all sincerity was writing letters after letters making themselves servant of this workman which is most reprehensible. Therefore, the management had its own problems due to unfairness of this workman and he was intimated under Ex. M26 dated 10-11-84 that his absence in excess of permissible limit under BPS could be a violation of terms of the contract of service entailing severance of the contract in which case the management had no other alternative than to terminate his services as per para 522(1) of Shastri Award. Later under Ex. M27, his services are terminated and a demand draft for Rs. 4715.10 being the 3 months salary in lieu of notice and the demand draft for Rs. 10216.05 being the retrenchment compensation as per section 25 F was sent vide letter dated 29-12-1984.

10. Shri K.D.H. the learned advocate for the first party tried to justify the stand of the first party on the plea that he was sending leave letters and therefore, it cannot be construed as absence. It is a very strange argument addressed by the learned advocate. This party deliberately remaining absent, possibly with a view to involve himself in his private business and he never made an attempt to get a MC from DMO though he was informed about it half a dozen times.



11. Under para 522 of Shastri Award in cases not involving disciplinary action for misconduct the employment of a permanent employee may be terminated by 3 months notice or on payment of 3 months pay and allowances in lieu of notice.

12. Under para 523, the services of a workman are terminated on grounds of retrenchment, some compensation should be payable by way of equitable relief. The management have complied to both these provisions and therefore, they are justified in dismissing the services of this workman as a termination. Therefore, the first point is held in the affirmative.

13. With regard to the second point this workman has not placed any material either in his claim statement or in his oral evidence, the reason for raising an industrial dispute in the year 1991 and admittedly he was dismissed from service w.e.f. 12-1-85. Though there is no special provision directly on this point the case law's developed by a series of judgement by the Supreme Court has considered this aspect of the matter and if there is any latches which is not properly explained then it was held that a party looses his rights due to latches committed by him. This view was taken because to avoid the references which are stale and speculative. The reference made by this workman is nothing but speculative as he would not loose anything in either way. Therefore, the first party is not justified for any relief as the dispute suffers from delay. We have not adverted to the decisions relied by both parties as they are only superfluous as this case is decided on its own merits which does not gave rise to any intericacies of law.

#### ORDER

Having regard to these facts and circumstances the second party are justified in dismissing the services of this workman. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 29-9-1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 अक्टूबर, 1999

का. ग्रा. 3141.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार करूर वास्या बैंक लिमिटेड के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्तर्गण में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलोर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-1999 को प्राप्त हुआ था।

[संख्या एल-12012/72/91-आई आर (बी-III)/  
(बी-I)]

जी. राय, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3141.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Karur Vysya Bank and their workman, which was received by the Central Government on 6-10-1999.

[No. L-12012/72/91-IR(B-III)/(B-I)]  
G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 30-9-99

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer

C.R. No. 15/91

#### I PARTY

V. C. Reddappa Chetty,  
67/C, 2nd Main, 3rd Block,  
3rd Stage, Basaveswara Nagar,  
Bangalore-560079.

#### II PARTY

Chairman,  
Karur Vysya Bank Ltd.,  
Erode Road,  
Karur-639002.  
Tamilnadu State.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/72/91-IR(B-III) dated 22-3-91 on the following schedule :

#### SCHEDULE

"Whether the dismissal of Shri V. C. Reddappa Chetty, Clerk, by the management of Karur Vysya Bank from service w.e.f. 15-12-89 is justifiable? If not, to what relief he is entitled to?"

2. The first party joined this bank as a clerk on 1-9-72. After confirmation he has worked in several branches and from 23-2-83 to 11-5-87 he was working at Rajainagar branch, Bangalore. The management found that he has committed the following misconduct when he was working in that branch :—

- (i) Committing an offence punishable under the Indian Penal Code involving the moral turpitude.
- (ii) Engaging in any trade or business outside the scope of our employment without the written permission of the Bank.
- (iii) Wilful damages or attempt to cause damage to the property of the bank or any of its customers;
- (iv) Doing act prejudicial to the interest of the bank involving or likely to involve the bank in serious loss.

3. To support the misconduct a charge sheet dated 23-6-88 was issued to him listing several types of misconduct committed by this workman which runs to 6 pages. For convenient sake a zerox copy of the charge sheet is enclosed to this award.

4. The workman appears to have not filed any reply to the listed charges made against him. The management conducted a domestic enquiry by appointing an enquiry officer V. K. Raghavan.

5. It is most disturbing that the parties have not made any efforts for the progress of this case from the date of its inception. It appears that they have engaged in filing several applications and then moving the High Court after an order by this tribunal. Ultimately on the validity of domestic enquiry, which was a preliminary issue framed by this Court, the evidence of the enquiry officer was recorded on 18-1-99. The first party not appeared to give his evidence on this preliminary issue. Later he has filed a memo dated 25-3-99 that he concedes the fairness of the domestic enquiry without prejudice to his right to argue on the perversity of the findings of the enquiry officer, Disciplinary Authority and the Appellate Authority and also to argue the justification of the punishment of dismissal imposed on him.

6. In view of the above memo, the validity of DE was held in favour of the management.

7. Smt. Sarvamangala, the learned advocate for the second party has submitted that the listed charges under Ex. M2

vere proved in the domestic enquiry. Since the validity of domestic enquiry was held in favour of the management, this court has jurisdiction only to find out the disproportionate punishment unless the first party is able to prove any perversity in the findings of the domestic enquiry.

8. Against this the learned advocate for the first party filed written arguments.

9. As it regards to perversity, the contentions raised in the written arguments are :—

- (a) There is no complaint against the first party workman from the customers and the bank not satisfied the actual amounts alleged to have been misappropriated by the first party.
- (b) In the charge number IV that the first party workman has done an act prejudicial to the interest of the bank involving or likely to involve the bank in serious loss, there is no finding.
- (c) The passing officer who is superior to the Clerk who pass the cheques is not charge sheeted and punished.
- (d) The management have not considered Exs. D1, D2, D3 while awarding the punishment to the workman.

10. The above contentions raised by the first party is not sufficient to go into the question of perversity. In fact the enquiry officer was examined as MW1 and he said that the management examined one witness and 58 documents were relied on that basis, he gave his finding against this workman. In view of this any credence can be given to Exs. D1 to D3 in mitigating the quantum of sentence. Ex. D1 is a letter by a firm, owned by his mother-in-law, dated 4-2-88 addressed to the Manager to the effect that Poonima Enterprises given three cheques issued by Mayura Chits through the first party for encashment at Karur Vysya Bank as the firm had no account at that time and out of the total amount this firm has received Rs. 9900 Exs. D2 and D3 are two appreciation letters given to this workman for mobilizing deposits.

11. On going through the facts and circumstances of this case, the first party has committed a gross misconduct which is unbecoming of a bank employee. He has violated all the norms and discipline a bank employee shall possess in discharging a duty in the interest of the bank and the customers. Therefore, on a solitary appreciation of letter Ex. D1 this tribunal cannot invoke the benevolent provisions of Section 11A in his favour. In fact in Management of Catholic Syrian Bank Ltd. and Industrial Tribunal, Madras reported in 1999 II LLJ 164, a learned single judge of the High Court of Madras has considered powers under Section 11A in a similar circumstances of a case, which is, better than the case at hand. The learned judge refused to set aside the order of the Industrial Tribunal which allowed reinstatement, continuity of service and 90 per cent back wages by exercising discretionary power extended under section 11A of the Act.

12. Looking from any angle the management have made prima facie case of having committed the misconduct listed above and therefore, there cannot be any interference to the order of the management. In view of the above the following order is passed.

#### ORDER

The second party management are justified in dismissing the services of Shri Reddanna Chetty w.e.f. 15-12-89 on the proved misconduct. The reference is answered accordingly.

(Dictated to the P.A. transcribed by her, corrected and signed by me on 30-9-99.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 7 अक्तबर, 1999

का. प्र. 3142.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बिल एंड एक्सल प्लांट के प्रयत्न संत के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में

निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-10-1999 को प्राप्त हुआ था।

[संख्या एल-41012/82/96-आई प्रार (बी-1)]  
जी. रॉय, डेस्क अधिकारी

New Delhi, the 7th October, 1999

S.O. 3142.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Wheel and Axle Plant and their workman, which was received by the Central Government on 6-10-1999.

[No. L-41012/82/96-IR(B-I)]

G. ROY, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 29-9-1999

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 245/97

#### I PARTY.

Sri V. Krishnamurthy,  
C/o Ex. Councillor,  
Rranna Building, No. 1333,  
II main, Gandhinagar,  
Yelahanka,  
Bangalore.

#### II PARTY

The Dy. Chief Mechanical  
Engineer,  
Office of the General Manager,  
Wheel and Axle Plant,  
Yelahanka,  
Bangalore.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-41012/82/96-IR (B-I) dated 3-7-99 on the following schedule :

#### SCHEDULE

"Whether the management of Wheel and Axle Plant is justified in removing Shri V. Krishnamurthy from service w.e.f. 24-10-1991? If not, to what relief the workman is entitled?"

2. The first party was appointed as Temporary Group 'D' staff in the plant of the second party on 19-12-85. He was promoted to officiate as Semi-skilled Artisan w.e.f. 26-12-90 after passing a trade test.

3. The management having noticed some misconduct of this workman have issued a memorandum of charge sheet dated 26-2-91 listing the nature of misconduct committed by this workman dividing into 5 articles.

4. The first misconduct was while he was on duty on 20-2-91 to 22-2-91 he was found missing from the works spot on 4 occasions amounting to 4 an hour each, punching GA card early.

5. The second charge was on 22-2-91 at 10.30 AM he has approached his shift charge man for sanction of half day

C.L. When it was rejected due to insufficient staff this workman started instigating other staff of AMS and Assembly Shop and gathered them at about 10.45 hours and then proceeded to AMS's office. Although AWM persuaded him and the other staff this workman did not go back to his work spot.

6. Article III is with regard to shortage in production than the target committed on 20-2-91 to 22-2-91.

7. Article IV relates to his attendance which shows that he was absent on 7-2-91, 8-2-91 and 16-2-91 and half day on other two days. The above acts has been listed by the management as careless, negligent, lack of devotion to duty and mis-conduct which are the violations of the Rule-III of Railway Service Conduct Rules.

8. A domestic enquiry was conducted where this workman participated. Some witnesses were examined to prove the misconducts alleged in the charge sheet. The enquiry officer, a department man, gave his report on the assessment of the evidence. The Disciplinary Authority accepted the findings of the enquiry officer. By considering this proved misconduct should be met with a punishment meant for major misconduct, and thereby he was removed from service immediately, which was w.e.f. 24-10-91.

9. Since this workman was removed from service on the basis of a report arrived in a domestic enquiry, this Tribunal has framed a preliminary issue to give a finding on the validity of DE. After examination the enquiry officer and this workman, this tribunal came to the conclusion that the domestic enquiry was fair and proper. After this conclusion the learned advocates have directed to argue the dispute on merits which generally includes the perversity in the findings of the enquiry officer, victimisation and unfair labour practice and proportionality of punishment to a proved misconduct. Shri MSA the learned advocate for the first party has initially submitted that the allegation of charge levelled against this workman does not come under a major misconduct and therefore, the order of removal is not sustainable. As against this submission Shri RD a learned advocate for the second party has submitted that the misconduct alleged against this workman is coming under the major punishment clause and therefore, there cannot be any interference to the order of removal.

10. I carefully gone through the article of charge levelled against this workman and related seriousness of those charges. Absenteeism for one or two days though it disrupt the work, a punishment of removal from service for the absent for 4 days is not sustainable. The conduct of this workman in protesting for not sanctioning his leave with a group of workmen was not a good gesture. Such acts always create a mis-understanding and distrust between the workman and the management. With regard to lower production the management are empowered to cut the incentives and if it is continued he should be punished with monetary deductions. Therefore, the punishment imposed against this workman is shockingly disproportionate. Therefore, there is no impediment for this tribunal to extend the benevolent provisions under Section 11A of the Industrial Disputes Act.

11 In RM Parama V/s. Gujarat Electricity Board (in 1982) Lab IC 1031 Mr. Justice Thakkar, late Chief Justice of Gujarat High Court, in his celebrated judgment has exhaustively dealt with punishments. The learned judge states that:—

"When difference categories of penalties can be imposed in respect of the alleged fault, one of which is dismissal from service the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalties available that can be imposed, having regard to the nature content and gravity of the default. Unless the disciplinary authority reaches the conclusion that, having regard to the nature, content and magnitude of the fault committed by the employee concerned, it would be absolutely unsafe to retain him in service, the maximum penalty of dismissal cannot be imposed. If a lesser penalty can be imposed without seriously jeopardising the interest of the employer the disciplinary authority cannot impose the maximum penalty of

dismissal from service. He is bound to ask the inner voice and rational faculty why a lesser penalty cannot be imposed.

It cannot be overlooked that by an large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and avail of the costly and time-consuming machinery to challenge in desperation the order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to take recourse to costly legal proceedings which result in loss of public time and also result in considerable hardship and misery to the employee concerned."

12. If we analyse the legal position under Section 11A and the reported judgment extracted above, this tribunal has got jurisdiction to interfere with punishment. Having regard to these facts and circumstances the following order is made:—

### ORDER

The order of removal made by the second party against this workman is hereby set aside. For the proved misconduct the punishment would be stoppage of 3 increments with cumulative effect for a period of 5 years from the date of the order of removal. Consequently the second party are directed to reinstate this workman to the position he was holding at the time of removal. He is entitled for 25 per cent of the back wages as he is also responsible for the management to initiate action against him. There shall be continuity of service. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 29-9-1999.)

Justice R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का. आ. 3143.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार एफ. सी. आई. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अन्तर्गत में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-10-99 को प्राप्त हुआ था।

[सं. एल-22012/232/एफ/93-आई आर (सी-II)]

वी.एस.ए.ए.सी. राजू, डेस्क अधिकारी

New Delhi, the 4th October, 1999

S.O. 3143.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workmen, which was received by the Central Government on 4-10-1999.

[No. L-22012/232/F/93-IR(C-II)]

V. S. A. S. P. RAJU, Desk Officer

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 17th September, 1999

PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 67/94

**I Party :**

Shri K. B. Nagaraj,  
S/o Basappa,  
C. Kanakeri,  
10th Cross,  
Bharathi Colony,  
Davangere-577003.

**II Party :**

The Senior Regional Manager,  
Food Corporation of India,  
H. O. Pallavi Complex,  
No. 10, Mission Road,  
Bangalore-560027.

**AWARD**

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-22012/232/F/93-IR(C-II) dated 7th December, 1993 for adjudication on the following schedule :

**SCHEDULE**

"Whether the management of Food Corporation of India is justified in terminating the services of Shri K. B. Nagaraj, Part-time Sweeper from 27-7-91? If not, what relief he is entitled to?"

2. The I party in his Claim Statement has contended that he was appointed as a Sweeper w.e.f. 13-1-87 at a Salary of Rs. 100 p.m. In appreciation of the hard work, the Branch Manager of the II party recommended for the appointment of I party as a Full Time Employee. Meanwhile the I party passed SSLC and Junior Typewriting. He was also doing typing work in addition to usual work. Therefore his service were regularised w.e.f. 10-2-88 and he was paid a salary of Rs. 300 p.m.

3. It is further contended that the I party was terminated from service w.e.f. 27-1-91 without assigning any reasons. But on his request he was reinstated w.e.f. 31-1-91. Again he was unceremoniously terminated from 27-7-91. He has continuously worked from the date of his initial appointment till his termination. Therefore without assuming any reason and without conducting an enquiry his termination amounts to retrenchment. As the mandatory provisions are not followed he is entitled for all benefits such as reinstatement, backwages, continuity of service etc.

4. The II party in their Counter Statement have denied the averments made by the I party, that he was appointed as a Sweeper w.e.f. 13-1-87 on a salary of Rs. 100 p.m. It is contended he was taken as a Part-time Casual Labourer on daily rate basis and when his service are required to work as a Sweeper as there was no sanctioned post of Sweeper at Davangere. They have further denied that he has been recommended by the Branch Manager to work as a Full Time employee. They have also contended their ignorance about passing SSLC and Typewriting examination by this workman and he was doing typing work.

5. It is the case of the II party that the I party has been paid Rs. 10 as a Daily wages whenever his service are required. The contention that he has passed SSLC cannot be believed on the ground that if his contention that if he was a regular employee he cannot prosecute his studies unless a Special permission is obtained. They have also denied the contention of termination as the same will not arise as the I party was working as a Part-time Casual Employee. The continuity of service was also denied and his entitlement to the benefits treating his termination as retrenchment is also questioned.

6. It is lastly contended that the I party was a Casual Labourer getting the work wherever it was available, therefore he cannot seek an Order of Reinstatement, backwages and other benefits.

7. Since there was no scope for framing any additional issue the parties are asked to give their evidence on the merits of the points enumerated in the Schedule. The II party examined an Assistant Manager and the Workman was examined himself.

8. The evidence of MW 1 is that he knows that the I party was working as a Casual Labourer in Davangere Branch and he was engaged on 13-1-87, no appointment letter was issued. They were paying Daily wages as prescribed, whenever he worked. The Daily wages varied from Rs. 10 to Rs. 12. His service was not regularised from his Casual Labourer status. The I party was not continuously working. Since he was a Casual employee, the question of reinstatement does not arise. Regular employees will be appointed after Notification from the Head Office.

9. A lengthy Cross-examination was made to this witness. It is elicited that the Davangere Branch was a Branch Office and the District Office was at Mangalore. The DM was the head of the Office. He took charge on 27-12-89 and his predecessor was one Nazee Jung. The I party was the only person working as a Sweeper at the Davangere Branch. At present they have a permanent Sweeper transferred from Shimoga Office and the transfer was made during 1989. No attendance register were maintained. So another question this witness has stated the working days were calculated for payment of wages. The bills used to be sent to DM for purpose of payments. After the amount is sent by DM, they used to pay the workmen. He has further stated that the maximum daily wages was Rs. 12.80. There was no allowances. He has admitted that Ex. W-1 is a recommendation made by the Assistant Manager to give full time employment to this workman. He has shown his ignorance about the I party doing typing work. He has also stated that the work used to be provided whenever it was available. The regular work for Sweeping, Dusting and other works were regularly existing. He has denied the continuation of work till 27-7-91.

10. The I party in his evidence has confined to the averments made in the Claim Statement. He has also stated that he was doing typing work in 1989 after passing the typing examination. He has referred to a representation Ex. W-1 and the endorsement made thereon as per Ex. W1(a). After the recommendation his wages was increased by Rs. 12.80 per day. He worked on every day except on general holidays. The Payment used to be made by taking his signature on vouchers. He worked continuously till 27-7-91. There after he was informed not to attend the duty.

11. In the cross-examination he has admitted that he has not been given any appointment letter. He has also admitted that initially he was taken as a Part-time sweeper. He has denied that his work used to be allotted whenever there is work. He has also denied that Ex. W-1 was created for the purpose of this case. He has not produced any Certificate to show his continuity of service from 13-1-87 to 27-7-91.

12. If we assess the evidence analytically the conclusion is that the I party failed to establish that he was appointed on a payment of Rs. 100 and thereafter he was regularised as a full time employee on Rs. 300 per month. His evidence is contrary to what he has stated in Para 3 of the evidence where he states that after Ex. W1 which is dated 18-7-89, his daily wages were increased by Rs. 12.80. To prove that Ex. W-1 is a genuine document, except his sole evidence there is no corroborating evidence available. Ex. W-1 is admittedly a Xerox copy. Ex. W-1(a) is an alleged endorsement said to have been made on 13-7-89. There is no material who is the Officer endorsed as Ex. W-1(a) and whether he was competent to make such a recommendation. The I party has also not produced the marks card of SSLC and a certificate of having passed typewriting examination. He has also not placed any material that his Salary was increased to Rs. 300 p.m. from 10-2-88. According to his own say that he was requested for enhancing his wages to Rs. 300 vide his representation dated 18-7-89. Therefore his contention in the Claim Statement, he was regularised from 10-2-88 and he was paid of salary of Rs. 300 p.m. is false. Therefore it is difficult to accept that the I party has worked continuously from 13-1-87 with charge in wages from time to time till 1991. The Pleadings are contrary to the evidence. In fact the I party made an attempt to rely on the payment vouchers only on the basis of an admission made by MW 1 that his wages used to be paid against the vouchers. That application was however rejected.

13. If the I party seeks an Order that his termination amount to retrenchment, he is to prove that there was continuity of service with wages of Rs. 300 p.m. and his services are terminated on a particular day. Unless he proves these facts satisfactorily it cannot be presumed that he has worked for more than 240 days in a given year. Therefore his termination amounts to retrenchment.

14. The evidence of MW 1 that one Hanumanthamma was continued to workup, after transfer from Shimoga Office during 1989 as elicited in the Cross-examination goes to the route of this case to contend that the I party worked upto 27-7-91. The learned advocate for the II party produced general conditions of services marked as Ex. M-2. The procedures laid down under clause 9 for direct recruitment for Class III and Class IV posts. When these facts are present the contention of the I party that he was regularised, during 1988 cannot be accepted at all. Infact a Candidate by name Hanumanthamma is working vide Order Ex. M-1, transferred from Shimoga.

15. Since the I party has failed to prove that he was a SSLC passed candidate with a pass in Typewriting examination his evidence cannot be accepted that he was also doing typing work. Since Ex. W-1 is not proved the authenticity of this documents cannot be taken for the benefit of this workman.

16. Since there is no material that he has worked continuously for the period alleged by him and his services are terminated w.e.f. 27-7-91 he has not entitled for any benefit made in his Claim Statement. The point of dispute shown in the schedule is not happily worded. Since there is no termination this Tribunal cannot give a finding on the same.

17. Shri V. S. Naik, the learned advocate for the I party has placed reliance of 2 judgements between MCD and Praveen Kumar Jain reported in 1998(2) ELJ 674(SC) and Ratan Singh v/s Union of India reported 1998 SCC (L & S) 170.

18. In the first decision the relief of backwages was considered when a daily rated workman discharged his service without complying section 25F or without conducting enquiry to prove the charge of misconduct.

19. In the second case, the Supreme Court held that Section 25F and 25B is applicable to the termination of even a Daily rated workman who had continuously served for the requested statutory period in a year. Infact there workman has worked 20 long years without any regularisation. Therefore the court found the application of 25F was absolutely necessary.

20. Since this workman failed to prove that he has worked more than 240 days continuously as daily rated employee, the above judgement are not coming to his help. Admittedly, he is a part time Casual Employee and therefore he cannot be treated as a Daily Wager working 8 hour in a day.

21. Having regard to these facts and circumstances the following Order is made.

#### ORDER

22. The reference is rejected.

(Dictated to the L D C. transcribed by him, corrected and signed by me on 17th September, 1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का. आ. 3144.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदोष औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के

पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-99 को प्राप्त हुआ था।

[सं. एल-12011/17/96-आई आर (बी-II)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 4th October, 1999

S.O. 3144.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 1-10-99.

[No. L-12011/17/91-IR(B-II)]

B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, the 20th September, 1999

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C.R. No. 247/97

#### I PARTY

The Assistant Secretary,  
Canara Bank Staff Union,  
Triveni Compound,  
Near Capitanio High School,  
Mangalore-575002.

#### II PARTY

The Dy. General Manager,  
Canara Bank, Central Office,  
Lighthouse Hill Road,  
Mangalore-575001.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12011/17/96/IR(B-II) dated 7-7-97 on the following schedule :—

#### SCHEDULE

"Whether the action of the management of Canara Bank in denying S/Shri Chikkayya Devudiga and Horapete, absorption as sub-staff is legal and justified? If not to what relief the said workman is entitled?"

2. In this case the concerned workman, Chikkayya Devudiga, whose cause was espoused by the first party union, is for absorption as sub-staff.

3. The admitted facts are that this workman was appointed as a part-time employee on a consolidated wages w.e.f. 20-10-1979. He was elevated to 1/3rd time scale wages on 1-8-1985 and a half scale wages from 24-3-1987. He has passed 8th standard during the year 1989. He was only 4th standard when he was first selected by the second party.

4. His contention is that as per the directives made by the Central Government, he was eligible for absorption before 1990 and the management shall be directed to absorb and appoint as a sub-staff in view of his unblemished service of nearly 20 years. He is also contended that refusal for absorption is effected his long service conditions and it is a discrimination employed by the second party bank.

Therefore, he prayed for a post of sub-staff and all benefits resulting thereon.

5. The second party have filed their counter statement. After accepting the undisputed facts narrated in the claim statement they have contended that they are bound by the Government directives issued by the Nodal Ministry in the matter of administration and other service conditions and on this background they could not consider the request of this workman for absorption. They have placed strong reliance on Ex. M1 and its encloser which deals with recruitment norms for PTEs and other related guidelines. According to them a part-time employee in time scale should not have crossed 26 years of age at the time of elevation as PTE in time scale for empanelment in the daily wages panel. PTE should have passed 6th standard before crossing the upper age limit of 26 years as stated earlier.

6. Since there was any scope for framing any additional issues the second party was asked to justify their action in accordance with points of disputes referred in the schedule.

7. The second party examined a Manager as MW 1. This witness has stated that the bank has issued a consolidated guidelines during December 1993 in the matter of recruitment of PTEs as per Ex. M1 dated 23-12-93. Ex. M2 is the proceedings of the General Manager while appointing this workman on 28-9-79. This workman has not acquired the minimum qualification of 6th standard before attaining the age of 25 years. Therefore, a representation given by him on 6-6-1989 as per Ex. M4 was suitably replied as per Ex. M5. This witness has further deposed as per the norms, the first party was not possessing the requisite qualification and age to empanel him in the daily wages panel. No part-time employee can be absorbed in the sub-staff cadre straight away. If the part-time employee satisfies the requisite criteria of age and qualification then he will be considered for empanelment. Once empanelment is made they get the eligibility to be appointed as sub-staff as per their seniority list. There is no exception to this rule.

8. When the service conditions of bank employees issued under the directions of Ministry of Finance was brought to the notice of this witness he has expressed his ignorance of the same. For the next question that during 1989 this workman had requisite qualification to be absorbed as a sub-staff, this witness answered though he had required qualification he was over aged. He has admitted the fact that during 1976 some directions to the banks were given to give relaxation on age only in respect of SC & ST and he denied the suggestion that the 1976 guidelines is applicable to the workman.

9. MW2 a Law Officer has deposed that this workman claimed his right pursuant to a circular referred in para 5 of the claim statement but the same was not produced and the bank is not ware of the same. The evidence of this workman is a reiteration of the contentions raised in his claim statement.

10. By analysing the evidence, that this workman was joined the second party bank on 20-10-79 when he was hardly 21 years. His educational qualification was 4th standard. It is also noted that he was continuously working from that day and he was benefitted with 1/3rd scale and 1/2 scale subsequently. Shri TRKP the learned advocate for the second party has contended that on the admitted facts the second party are unable to consider his case for empanelment and subsequent appointment as a sub-staff due to the guidelines contained in Ex. M1. Against this submission Shri KVS a learned advocate for the first party has contended that there was no impediment for the management for absorption of this workman to the post of peon in view of a circular of the Government which is reproduced in a book. Service Conditions of Bank Employees (Award Staff) edited by an author, Y. Bhaskara Rao. The attention of this tribunal was drawn to page III coming under Chapter 10.

11. Chapter 10 deals with the service conditions of PTE. An extract dealing with promotion of Sweepers to sub-staff cadre is necessary to reproduce—

"With a view to improve the work environment of sweepers and such other employees in this cadre, all the

departments were required to amend the recruitment rules of sub-staff category. These rules should provide for absorption of those sweepers who possess the requisite qualification in the sub-staff cadre.

The question was re-examined by the high power committee under the chairman ship of the Prime Minister and following observation were made.

1. The minimum educational qualifications may not be insisted in their case and relaxations of the same should be sympathetically considered if they possess elementary literacy and give proof of their ability to read Hindi.

2. 25 per cent of vacancies accruing in the peons cadre should be reserved for being filled up by transfer of sweepers, farashes, and chowkidars etc. who have put in a minimum of 5 years of service and who may not be possessing the qualifications prescribed for direct recruitment to the post of peons.

3. To ascertain whether the sweepers, farashes, chowkidars etc. possessing elementary literacy and have ability to read Hindi, it would be necessary to hold a simple written test.

A subsequent communication received from the department of personnel and administration reforms reads that:

"It was decided in view of the practical considerations involved Sweepers/Farashes etc., who possess elementary literacy and give proof of ability to read either English or Hindi or regional language could be considered for transfer to the peons cadre in the 25 per cent vacancies reserved for them". This is in partial modification to Ministry's earlier letter dated 16-1-76.

12. This workman on the assumption that for an empanelment the educational qualification of 8th standard was necessary has in fact studied and produced a certificate Ex. M1. He gave representations from 6-6-89 onwards Ex. M4 and M6 dated 6th June, 1989 and 14th August, 1990 are the two representations. The Management in their reply Ex. M7 has advised him that he is not fulfilling the conditions of upper age limit within 25 years and non acquiring the minimum educational qualification before reaching 25 years he is not eligible for absorption.

13. Admittedly the guidelines Ex. M1 was dated 23-12-93. This guideline was issued on the ground that the uniform procedure is not being followed in the matter of recruitment of PTE. In order to have uniformity in the matter of recruitment norms was evolved for PTE and also consolidated other related guidelines. It is also pointed out that the revised procedure may be given effect immediately.

14. Admittedly this workman has requested for absorption before these guidelines came to effect. Ex. M5 is a reply dated 19-6-89 where it was pointed out that he is over aged and does not have the requisite qualifications. In fact the encloser to Ex. M1 which contained the guidelines discloses in the first page that no minimum educational qualification but pointed out that the maximum qualification is 5th standard. With regard to age it is observed that the age criteria can be relaxed by the DGM of the circle in case of engagement of the PTEs on consolidated wages. Further relaxation in age limit can also be given by DGM when the existing PTE on consolidated wages is absorbed in scale wages due to increase in hours of work. This guidelines also gives jurisdiction to the management to relax the guidelines in respect of PTEs appointed earlier.

15. This guidelines has no scope to give the retrospective status. The second party have not stated that the service conditions issued from time to time was not applicable in considering promotions. The extract made above gives a special power to the management to promote the Sweepers to sub staff cadre by relaxing the conditions to the extent stated thereon. Therefore the management had no impediment to promote this workman as a Peon or sub-staff following these guidelines. Admittedly this workman is working

from last 30 years without any scope to become a sub-staff and therefore, the contention of the second party that they are guided by the guidelines of 1993 to deprive this workman of becoming a sub-staff cannot be accepted at all. This workman acquired a right to become a sub-staff for absorption on the service conditions laid down before Ex. M1.

16. In the result I make the following order :

#### ORDER

The second party are not justified in depriving this workman the benefit of absorption and appointing to the cadre of sub-staff relying on 1993 guidelines. Therefore, the second party are directed to absorb this workman and promote him to the cadre of sub-staff w.e.f. his application Ex. M4 dated 6-6-1989. This workman is not entitled for any back wages but for the purpose of retirement benefits he shall be deemed to have been worked as a sub-staff from 6-6-89 onwards. The reference is answered accordingly.

(Dictated to the PA. transcribed by her, corrected and signed by me on 20-9-1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का. अ. 3145.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिग्रहण बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-99 को प्राप्त हुआ था।

[सं. एल-12012/34/92-आई आर (बी-II)]

बी. एम. डेविड, अवसर सचिव

New Delhi, the 4th October, 1999

S.O. 3145.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 1-10-99.

[No. L-12012/34/92-IR(B-II)]  
B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated. 24th September, 1999

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer

C.R. 53/92

#### I PARTY

The State Secretary,  
Syndicate Bank Staff Union,  
G-6, Manish Towers,  
84, J. C. Road,  
Bangalore-560002.

#### II PARTY

The General Manager (P),  
Syndicate Bank, Head Office,  
Manipal,  
South Canara,  
Karnataka.

#### AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/34/92-IR(B-II) dated 24th June, 1992 for adjudication on the following schedule :

#### SCHEDULE

"Whether the action of the management of Syndicate Bank, Mangalore, is justified in dismissing the services of Shri P. C. Narayan, Ex-sub-staff, Local Office, Udupi? If not, to what relief is the workman entitled to?"

2. The I party at the relevant point of time was working as a Sub-staff, at Udupi branch of II party Bank. The Management found that this workman between 16-8-88 and 3-11-88 collected the proceeds of 17 instruments and has committed Temporary and Permanent misappropriation. Therefore, the II party issued a Charge Memo/Suspension Order dated 12-1-89 (Ex. M-2). The specific allegation of misconduct alleged against this workman is as follows :

"1. That during the period between 16-8-88 and 3-11-88 he has collected cash from other local Banks/Offices in respect of 17 instruments for sums of Rs. 22,692.25. In respect of 10 instruments, for sums aggregating to Rs. 11,796.35 entrusted to him for collection, he has obtained the payments from the respective local Banks/Offices but did not remit the cash proceeds at the Local Office branch, Udupi on the same day.

2. With regard to the 7 instruments which was also entrusted to him for collection for the sums aggregating to Rs. 10,895.90 drawn on various other local Banks/Offices during the period between 16-8-88 and 3-11-88, he has received payments from such local Banks but did not remit/credit the same at the Udupi local office branch. On enquiry he gave a letter and admitted that he has collected cash in respect of 7 LSC's and the same is kept with him and he will reimburse subsequently. Therefore the management found that this workman has committed a gross misconduct of doing acts prejudicial to the interest of the Bank under Clause 19.5(j) of the Bi-partite Settlement.

3. This workman in his explanation dated 15-2-89 has denied the allegation in toto and with regard to letter dated 29-11-88. He has contended that the same was vitiated by fraud and misrepresentation as he has never wrote such a letter voluntarily and on his own accord.

4. The Management have decided to conduct the Domestic Enquiry by appointing an Officer of the Bank R. Venkataraman as an Enquiry Officer. After the Domestic Enquiry this Enquiry Officer gave a finding on 25-7-89 holding that the management proved the misconduct of this workman on both charges. The Disciplinary Authority accepted the charges and after giving an opportunity of personal hearing, this workman was dismissed from service. The appeal filed by him came to be dismissed.

5. This workman in his Claim Statement has initially questioned the validity of Domestic Enquiry. He has also contended that the charges are not proved as the witness who have been examined had no connection with the transaction and therefore the Order suffers from perversity.

6. The Management not only supported the validity of Domestic Enquiry and they have also justified the Order of dismissal on the proved misconduct which is serious in nature

7. However, this Tribunal framed a preliminary issue to give a finding on the validity of Domestic Enquiry. After examining the Enquiry Officer as MW 1 and the concerned workman as WW1, by appreciating the Oral evidence coupled with the documents produced in the enquiry file we came to the conclusion that the enquiry was conducted with fairness after observing the principles of Natural Justice. In view of this finding the I party was asked to justify his allegation that the report of the Enquiry Officer is perverse and with ulterior motive his services are terminated which amounts to victimisation.

8. Shri B. D. Kuttappa the learned Advocate for the I party has filed written arguments to justify that the report of the Enquiry Officer is perverse. The learned Advocate for the II party Smt. Saivamangala made Oral arguments and produced the relevant Judgements in support of the case of the II party.

9. I have carefully gone through the written arguments filed by the learned Advocate for the I party. The main contention of the learned Advocate is that MW 1 was being an officer appointed for conducting Pre-investigation before framing the charge is not a competent witness as he was unable to give answers to some of the questions which is to be held in favour of the I party. The learned Advocate extracted question and answers of MW 1 to substantiate this aspect of the matter. In conclusion it is the contention of the I party that the charges are not proved, as it is expected, and therefore the benefit is to be given in favour of the I party.

10. The contention of the II party is that the assessment of both Oral and Documentary evidence coupled with the admission made by this workman established that he has committed offences levelled against him in the Charge Sheet and therefore in these circumstances the charges are proved.

11. I have gone through the findings and the papers relied in the Domestic Enquiry. This workman in his explanation Ex. M-3 gave a very vague reply and he has not met the allegation made in the Charge Sheet alongwith the Statement of the Cheques received by him, the date of encashment, the date of Payment to the Bank and in the second charge the date of encashment and the allegation of not crediting to the Bank at all. Therefore, this workman having failed to give a proper explanation about the misconduct alleged against him, cannot simply say that it is the sole jurisdiction of the management to prove the misconduct. While proving a misconduct in the manner they feel, but it does not mean that the workman had no role to plead his innocence. In the Domestic Enquiry the evidence has to be appreciated on the preponderance of circumstances and the law does not envisage that the allegation has to be proved beyond reasonable doubt as envisaged under the law of evidence act. It is sufficient if a man of ordinary prudence will appreciate the circumstance of this nature to prove the guilty of a person and it does not require a close examination of each and every circumstances.

12. This workman by his letter dated 29-11-88 (M Ex. 35) has accepted the fact that he has retained Rs. 10,810.40 and he will repay it within 15 days. He has also given description of instruments which was entrusted to him.

13. The management have obtained written information from the banks where the cash has to be collected from presenting the instruments entrusted to the workman. They are marked as M Ex. 4 to M Ex. 8. These banks have certified when the instruments was presented, details of Cash received and the person who has received the cash. They have shown P. C. Narayan as the person who received the cash by presenting the instruments.

14. In view of these circumstances, it cannot be held that the report of the Enquiry Officer is suffering from lack of legal evidence and thereby it is a perverse order.

15. Once a Domestic Enquiry held is to be fair and proper this Tribunal loses its jurisdiction to examine the findings of the Enquiry Officer unless it is established that such a finding is perverse. Though two views are plausible the Tribunal cannot adopt the other view. It can only interfere with the punishment if the same is shockingly disproportionate to the proved misconduct.

16. Having regard to these facts and circumstances and the law being well settled as to the nature of punishment, it is not necessary to advert to the reported judgement on this point. In the result I make the following Order.

#### ORDER

17. The II party are justified in dismissing the services of this workman on the proved misconduct. The reference is answered accordingly.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 24th September, 1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का. आ. 3146.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार यूको बैंक के प्रबन्धन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अन्वय में निदेश औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण—II, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-99 को प्राप्त हुआ था।

[सं. एन-12012/64/98-आई आर (बी-II)]  
बी. एम. डेविड, अवर सचिव

New Delhi, the 4th October, 1999

S.O. 3146.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 1-10-1999.

[No. L-12012/64/98-IR (B-II)]  
B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL NO. II  
MUMBAI  
PRESENT

SHRI S. B. PANSE

PRESIDING OFFICER

REFERENCE NO. CGIT-2/13 of 1999

EMPLOYERS IN RELATION TO THE MANAGEMENT OF  
UCO BANK

Divisional Manager  
UCO Bank, Mafatlal Centre,  
II Floor, Nariman Point,  
Mumbai-400 021.

AND

THEIR WORKMEN

The General Secretary,  
UCO Bank Staff Union,  
Mumbai, C/o UCO Bank  
Dr. Dadabhai Naoroji Road,  
Fort, P.B. No. 833,  
Mumbai-23.

#### APPEARANCES :

FOR THE EMPLOYER : Mr. V. P. Vaidya, Advocate.  
FOR THE WORKMEN : Mr. Umesh Nabar, Advocate.

MUMBAI, dated 16th September, 1999

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-12012/64/98/IR(B-II), dated 31-12-1998 had referred to the following Industrial Dispute for adjudication.

"Whether the action of the management of UCO Bank in terminating the services of Shri V. S. Patil and Shri D. S. Kotharkar w.e.f. 29-5-97 is legal and justified? If not, to what relief the said workmen are entitled?"



2. The General Secretary UCO Bank Staff Union filed a Statement of Claim at Exhibit-5. It is pleaded that D. S. Kotharkar and V. S. Patil joined the services of UCO Bank (hereinafter referred as the bank) on 5th May, 1985 and 13th October 1986 respectively, as daily wagers. They were allotted the work of a coolie cum cleaner at Sitaram Mill Compound godown of the bank. They were paid wages monthly on the basis of the daily rates. The work assigned to them is of a permanent nature. They were employed for carrying out the work of receiving stationery items from suppliers and despatching them to all branches in the zones of the bank. It is from that they were required to work continuously without any break in service since the entire work in the zones of receiving and supplying stationery items was done at Sitaram Compound where the said workmen were employed.

3. The bank issued a circular dated 31st March '90 advising all its branches and officer in the matter of settlement dated 12th October '89 and circular dated 19th October '89 on absorption of persons engaged on daily basis. It was placed on the record that the bank desires to regularise the persons who are entitled for absorption on the basis of the above said settlement and circular.

4. The Union pleaded that the workmen case was recommended to the head office for absorption. But it was not carried out. The workman also made representation on the basis of the said circulars for regularisation. But instead of that their services were terminated w.e.f. 22nd May '97 without any notice and without following due process of law. It is averred that while doing so the bank totally ignored that there workmen are in continuous employment of the bank without giving artificial break in service and their absorption in the employment has been recommended by the zonal office of the bank repeatedly. It is contended their termination is in violation of Chapter VA of the Industrial Disputes Act, of 1947. They prayed that it may be declared that their termination is illegal and they may be reinstated in service to their original post w.e.f. 29th May '97 with full back wages, continuity of service and all consequential benefits.

5. The bank resisted the claim by the written statement (Ex. 7). It is averred that these workmen were working as daily wage employee and have not fulfilled the conditions envisaged in the guide lines issued by the bank by their circular dated 19-10-89. Hence they were not empanelled for absorption as per the settlement signed between the union and management. It is averred that the non-renewal of the contract of employment does not amount to termination from employment as the separation is on account of efflux of time. It is therefore they are not entitled to reinstatement or back wages.

6. The bank averred that the workmen were working as coolies and not performing their duties as subordinate staff. It is averred that in view of the settlement dated 19-10-89 those daily wages who were not eligible were not empanelled. Thereafter the bank by its circular dated 24th April 1997 informed its branches that daily wage earners who had not been empanelled and who are not entitled to absorption should not be associated and there was no scope for employment in the bank for daily wage earners. It is therefore, the order of non renewal of the services of the two employees is therefore legal, valid and justified. It is submitted that under such circumstances these workmen are not entitled to any reliefs as claimed.

7. The Union filed a Rejoinder at Exhibit-8. It reiterated its stand which it had taken in the Statement of claim and denied the contentions in the written statement which are contrary to their claim. It is denied that they do not satisfy the eligibility criteria as contemplated under the settlement dated 19-10-89. On the contrary the officer incharge of the bank recommended their case as they fulfilled the criteria. It is averred that the bank had raised the mischievous and fallacious contentions that the employment of employees engaged on daily wages come to an end on every day by efflux of time and the case of the daily wagers is covered under the provisions of section 2(oo) (bb) of the Industrial Disputes Act of 1947. It is submitted that they were doing the work of a permanent and perineal nature. They prayed for the same relief again.

8. The issues are framed at Exhibit-10. The issues and my findings thereon are as follows:—  
3078 GI/99—16.

Issues	Findings
1. Whether V. S. Patil and D. S. Kotharkar the daily wage employees have not fulfilled the conditions envisaged in guidelines issued by the bank by their circular dated 19-10-89?	They have fulfilled.
2. Whether the service of those two employees came to an end on 28-5-97 by efflux of time?	No
3. If yes, whether there was no question of complying with the provisions of the I.D. Act?	Does not survive.
4. Whether the action of the management of UCO Bank in terminating the services of Patil and Kotharkar w.e.f. 29-5-97 is legal and justified?	No
5. If not, to what relief the said workmen are entitled to?	As per order below.

#### REASONS

9. The union filed a purshis (Ex-11) and the bank filed purshis (Ex-12) informing the Tribunal that they do not want to lead any oral evidence. They relied upon the documents filed on the record and argued the matter.

10. Exhibit-13 is the circular of the bank dated 19-10-89. It deals with employment and absorption of the persons engaged on daily wage basis. It states that on 12th October, 1989 the management of the bank and three unions have finalised and signed the settlement for empanelment and absorption of a person engaged on daily wage basis. So far as these workmen in this reference are concerned, it is not in dispute that they were engaged on daily wages and paid monthly. Clause 2 of that circular deals with eligibility criteria. In short it deals with working days, age, educational qualifications and there is also a saving clause. Along with this circular Annexure it is a proforma application which is to be forwarded to the General Manager (Personnel) signed by the daily wagers who wants absorption and to be verified by the Manager/Head of Office through whom it is to be seen. That concerned officer had to give a certificate mentioned there in. It states

"Certified that all information furnished above by the applicant have been duly verified and are found correct. The details regarding No. of full days of work as Casual worker for discharging any of the normal duties in the Bank in the subordinate cadre including nature of job performed as mentioned under item (g) of the application have been duly verified and these are found to be true and borne out by facts and records with the branch/office."

11. Exhibit-14 is a letter dated 27-11-89 to Officer-in-Charge of the Stationery and Printing department of the zonal office on he subjects 'daily wages absorption on a permanent basis' in the banks service. He had mentioned that they received two applications of daily wagers viz. V. S. Patil and D. S. Katharkar in terms of the head office circular dated 19-10-89. It is categorically mentioned in this letter that they are working with them as hamaal cum cleaners. They have also forwarded the proformas of these workmen with certificate which was asked as per the circular (Ex-13). Those certificates bears the signature of the concerned officer and date 27-11-89.

12. Mr. Vaidya, the Learned Advocate for the bank argued that Mr. Patil is having the qualification of 10th standard which is a higher qualification and therefore he is not entitled for empanelment and regularisation. But his submission appears to be not correct. It is because the saving clause of eligibility criteria states that no person who was matriculate or highly qualified on the date of his first engagement as a casual worker shall not be disqualified for absorption in terms of his settlement merely on the ground that he has a higher qualification. So far as Kotharkar is concerned he has passed second standard. It is therefore, the information given in these certificates clearly comply with guide lines of the banks circulars.

13. It is interesting to note that the officer-in-charge of printing and stationery department by his letter dated 9-6-92 (Ex-15) informed the Regional Office in respect of daily wages staff. He had categorically mentioned that these workmen worked for doing coolies work at their godown. They are also called on Saturdays. In paragraph-I of the letter they had categorically mentioned that these workmen were engaged as helper and whenever there is necessity they have been doing all sort of other work in addition to their regular coolies work. Then they had given the list of the employees who were retired and transferred and in their place nobody was engaged, and these workmen were doing that work.

14. Again there is a letter to Assistant General Manager dated 2-6-96 (Ex-11) by which he informs the head office for absorption of these workmen. All these documents clearly go to show that they have fulfilled the conditions envisaged in the guide lines issued by the bank by their circular dated 19-10-89.

15. The bank had produced two circulars dated 28-4-97 and 30-4-97 at Exhibit-19 & 20 which speaks of non engagement of the daily wagers who are not 'empaneled'. It is tried to argue that on the basis of these circulars these workmen were not given work after 29th May, 1997. From the evidence which I have discussed above clearly go to show that these workmen are in continuous service as contemplated under section 25 B of the Industrial Disputes Act of 1947. They were not served with any notice. Simply they were not assigned any work after 29th May 1997. The letters which I have already discussed above clearly go to show that the work which was carried out by them was of a temporary nature, not of a permanent nature. There is no compliance of the provisions of the Industrial Disputes Act of 1947 before their termination. Obviously their termination is not legal and not justified. In the result I record my findings on the issues accordingly and pass the following order :—

#### ORDER

The action of the management of UCO Bank in terminating the services of V.S. Patil and D.S. Kotharkar w.e.f. 29-5-97 is not legal and not justified.

The bank is directed to reinstate Shri V.S. Patil & Shri D. S. Kotharkar to their original post w.e.f. 29-5-97 and pay them full back wages.

The bank to treat them in continuous service and they are entitled to all consequential benefits.

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.भा. 3147.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार केनरा बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अन्वंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बैंगलूर के पण्डित को प्रकाशित करती है, जो केन्द्रीय सरकार को 01-10-99 को प्राप्त हुआ था।

[सं. एल-12012/155/96-आई आर (बी-II)]

बी. एम. डेविड, अव्वर सचिव

New Delhi, the 4th October, 1999

S.O. 3147.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management

of Canara Bank and their workman, which was received by the Central Government on 01-10-99.

[No. L-12012/155/96-IR(B-II)]  
B. M. DAVID, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated the 22nd September, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 239/97

#### I PARTY

Smt. K. Shantha Kumari,  
Major in age,  
Residing at C/o  
S. M. Kuppuraj,  
No. 9/2, Damodar Mudaliar  
Street,  
I Cross, Ulsoor,  
Bangalore-560 008.

#### II PARTY

The Management of M/s.  
Canara Bank, (Head Office)  
represented by its Chairman,  
J. C. Road,  
Bangalore

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/155/96-IR (B-II) dated 21-5-1997 on the following schedule :—

#### SCHEDULE

"Whether the action of the management of Canara Bank in dismissing the services of Smt. K. Shantha Kumari is legal and justified ? If not, to what relief the said workman is entitled ?

2. The first party was working as a clerk at Indiranagar branch of the second party bank during 1991 onwards, till she was dismissed from service w.e.f. 29-6-92, after holding a domestic enquiry on the allegation of having committed gross misconduct within the meaning of Chapter 11, Regulation 3 clause (j) and (m) of Canara Bank Service Code.

3. A brief advertence to the charge is necessary and the same is as follows :—

Charge I On 12-11-91, Smt. Papamma, holder of SB Account No. 11430 at Indiranagar Branch complained that two withdrawals in her account for Rs. 1500/- on 10-7-91 and Rs. 2800/- on 8-8-1991 are not made by her. During investigation it is revealed that

on 10-7-1991, you had debited SB 13191 of Smt. Papamma, an illiterate Account holder with Rs. 1500/- and the said withdrawal slip is written by you. You stated to Sri Gregory Qujur, Officer who passed the slip that you know the customer.

You had unauthorisedly cancelled the debit entry in SB Account No. 13191 and posted the same debit in ledgersheet of another SB Account No. 11430 standing in the name of Smt. Papamma, an illiterate Account Holder, without bringing it to the knowledge of the supervisor. The Account number is also altered in the subsidiary.

On 12-11-91, on receipt of complaint by the account holder you confessed before Sri D. S. Vasudev Rao, Senior Manager, by telling 'sorry' about the above incidence. Subsequent to this you had given a sum of Rs. 4300/- to Smt. K. Dhanalakshmi, clerk, working at our Indiranagar Branch Bangalore for crediting to SB Account No. 11430 of Smt. Papamma on 14-11-1991.

**Charge II** It has been revealed that on 8-8-1991 you had debited SB Account No. 11430 of Smt. Papamma, an illiterate Account holder with Rs. 2800/- and the said withdrawal slip is written by you. You also told Shri K. N. Narasimhan, Officer when, he enquired about the account holder that you know the customer and you made payment to her as such she has left the branch. You had also attested the thumb impression of the account holder on the reverse of the withdrawal slip to confirm this.

On 12th November 1991, after admitting before the Senior Manager, you had given a sum of Rs. 4300/- to Smt. K. Dhanalakshmi, Clerk, working at your Indiranagar Branch Bangalore, for crediting to party's SB Account on 14-11-1991. You had remained absent thereafter without valid reasons.

4. The first party accepted the misconduct in her explanation dated 24-12-1991. However, the second party decided to conduct a domestic enquiry and appointed an Enquiry Officer R. Parthasarathy and one Gurunath as a Presenting Officer. The Enquiry Officer was asked to conduct two separate enquiries, one on charge number one and another on charge number two. The first party pleaded guilty in the domestic enquiry on both charges. The enquiry officer accepted the plea as the same was made voluntarily in spite of accepting the guilt the management examined 3 witnesses. The first party has not engaged any defence representative nor she attempted to cross-examine the management witnesses. The Enquiry Officer on the basis of plea of guilt and also on the basis of the evidence, both oral and documentary gave a finding that the first party is guilty of both charges.

5. The Disciplinary Authority accepted the report of the Enquiry Officer and gave another opportunity

for the first party, as it regards to the quantum of punishments. After hearings the first party, the Disciplinary Authority passed an order of dismissal on both charges.

6. Initially we have framed preliminary issue to five a finding on the validity of Domestic Enquiry as the first party has raised several contentions against the validity of Domestic Enquiry in her claim statement. After recording the evidence of the Enquiry Officer and the first party this court came to the conclusion that the domestic enquiry was conducted in accordance with law. Thereafter the case is posted for final hearing on the question of perversity, victimisation and unfair labour practice.

7. The first party in the claim statement contended that she has never admitted any one of the charges levelled against her in the chargesheets. In para No. 12, she states that "even agreeing for the sake of arguments that the first party workman is guilty of the alleged acts of misconducts, without admitting the same, the punishment imposed on her is most disproportionate to the gravity of the alleged misconducts levelled against her".

8. Shri K. V. S. the learned advocate for the first party was notable to show any perversity in the findings of the Enquiry Officer nor he was able to show that the second party have dismissed the services of the first party as a measure of victimisation and unfair labour practice.

9. It is evident that the first party who pleaded guilty before the Enquiry Officer and also explained the reason for committing such misappropriation before the Disciplinary Authority and Appellate Authority, has conveniently retracted her statement before this tribunal. It is to be said that the stand of the first party before this tribunal is due to the wrong legal advice of her advocate. But the conclusion is the same. By retracting whether the first party has forfeited her right to claim mercy, for taking a lenient view as it relate to the question of punishment? My answer is in the negative.

10. We have rejected the reference due to absence of the first party by an order dated 16-10-98. On 17-11-98 the first party filed an application supported by an affidavit giving reasons for not participating in the proceedings and prayed for recalling the order to enable to participate in the dispute. We have allowed that application.

11. I had the benefit of seeing the first party waiting in the court, also observed when she was in the witness box to give evidence on the validity of Domestic Enquiry. She however, tried to woodwork this court by giving some false evidence. But she was not able to suppress her emotions to conceal that she is giving a false evidence. This is one of the aspect which generally come across regularly where the parties are compelled to give statements which are not true. This may be due to giving wrong advices. This lady is suffering from some ailments which is evident by looking at her. She appears to be more overaged than 35 years which was given by her during the course of evidence.

12. When the Enquiry Officer explained the charges levelled against her on both enquiries she has pleaded guilty. When a second show cause notice issued proposing the punishment of dismissal she gave a reply before the Disciplinary Authority that if she is dismissed her entire family will be ruined and she swear that she will not give scope for such things in future. She also prayed for an opportunity to work in the bank by imposing any lesser punishment. She also gives a letter marked Ex. M7 before this tribunal, where she has given the family history which shows that she is suffering from health problems from last one year and she is getting giddiness and there is no earning member in the family. She is staying in her father's place where her husband also living who is also out of job. She is also having a female child of 2 years and all depending on some small earnings of her father. Therefore, she sought mercy and allow her to resume her duty with any minor punishment.

13. When her plea was not accepted by the Disciplinary Authority she files an appeal. Her appeal dated 12-8-92, where she gives a broad picture of her sufferings. After reiterating the earlier plea made by her she says that she was operated for Tuberculous Osteomyelitis and Right Temporal tuberculoma at M. S. Ramaiah Hospital. She was admitted on 19-2-92 and though she was required to continue treatment in the hospital due to her inability to meet the increased medical bill she has got discharged on 6-3-1992. She was not able to take post surgical medicines as she had without any income. Before she would fully recovered she had undergone another operation at Cambridge Nursing Home where she was admitted on 10-4-92 and discharged subsequently.

14. We cannot for a moment come to a conclusion that to save from punishment she has stated all these things. The repentencies writ large without there being any doubt. In such a situation where especially a lady who is the only bread earner in the family and she cannot get any job outside, showing of any sympathy is against majesty of law? A confession is true. Should it not be respected and give an opportunity for the confessor to lead a respectable life in future? Infact the social justice demands that the courts should exercise their discretionary powers when such a situation arises. The courts are not meant for just accepting each and every thing, but the courts have got a greater responsibility as to how certain social problems should be solved. The intentment of law is not to punish irrespective of various circumstances but to examine objectively whether the punishment is warranted.

15. I do not say for a moment that the Disciplinary Authority and the Appellate Authority have no jurisdiction to examine a situation like this and use their direction to award lesser punishment. Afterall an employee is a speck in the dust if we compare to the vast number of employees engaged by the banks. By showing mercy in a given cases of this nature, the prestige of the bank will not go down nor there is any offence made against the law. Infact Mr. Justice Thakkar, Lord Chief Justice of Gujarat High Court

in his celebrated judgement in R. M. Parama Vs. Gujarat Electricity Board (1982) Lab IC 1031 respectively dealt with the punishment that would be required to be given to the workman in given circumstances. The learned judge states that :—

“When difference categories of penalties can be imposed in respect of the alleged fault, one of which is dismissal from service, the disciplinary authority perforce is required to consult himself for selecting the most appropriate penalty from out of the range of penalties available that can be imposed, having regard to the nature content and gravity of the default. Unless the disciplinary authority reaches the conclusion that having regard to the nature, content and magnitude of the fault committed by the employee concerned, it would be absolutely unsafe to retain him in service, the maximum penalty of dismissal can be imposed. If a lesser penalty can be imposed without seriously jeopardising the interest of the employer the disciplinary authority can not impose the maximum penalty of dismissal from service. He is bound to ask the inner voice and rational faculty why a lesser penalty cannot be imposed.

It cannot be overlooked that by an large it is because the maximum penalty is imposed and total ruination stares one in the eyes that the employee concerned is obliged to approach the court and avail of the costly and time-consuming machinery to challenge in desperation the order passed by the disciplinary authority. If a lesser penalty was imposed, he might not have been obliged to take recourse to costly legal proceeding which result in loss of public time and also result in considerable hardship and misery to the employee concerned.

16. The object of Section 11A has having shown of what his Lordships Shri Thakkar elaborately dealt with in the case cited above. This section gives a discretionary power to the tribunal to satisfy itself that the order of discharge or dismissal were not justified. It may be just award to set aside the order of discharge or dismissal and directs the reinstatement of the workman with such terms and conditions deemed necessary in the circumstances of a case.

17. When we have a notion whenever a misconduct is committed there is no way to come back. It is not correct. A misconduct will be committed by various compelling reasons. There will be out of necessity, out of ignorance or out of greed. If the misconduct is out of necessity and if the person who committed such misconducts are some memory impulse and then repents with all sincerity that factor should be taken into consideration by the court sympathetically. We have a plethora of decisions that a misconduct of this nature shall be condemned and the punishment should be not less than an order of dismissal. We have analogous laws on criminal side to accept the social philosophy of not punishing a man contractually and to consider some extraneous circumstances and then to

give the benefit of living in the society like any other citizen. We have section 360 of Criminal Procedure Code and prevention of Corruption Act where instead of sending a person into the custody he will be released on probation to mould himself to become a good citizen. This is the object of law. I failed to understand how such a sympathetic view cannot be taken in labour laws. As Justice Krishna Iyer, a giant in considering this type of matters has said that 'Judge not only interpret law but he also makes while interpreting.

18. Looking from any angle this tribunal genuinely feels that by upholding the order of dismissal will not meet the ends of justice except creating a feeling that truth has no place in the society. Having regard to these facts and circumstances I make the following order :—

### ORDER

The second party management are not justified in dismissing the services of this workman in the facts and circumstances narrated above. Secondly the order of dismissal is set aside. The second party are directed to reinstate this lady to the position she held at the time of dismissal. She is entitled for continuity of service but not entitled for any back wages.

(Dictated to the PA, transcribed by her corrected and signed by me on 22-9-99).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का. अ. 3148.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बड़ोदा के प्रयन्तंत्र के संबंध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम II, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-99 को प्राप्त हुआ था।

[सं. एल-12013/64/98-आई आर (बी-II)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 4th October, 1999

S.O. 3148.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 1-10-99.

[No. I-12013/64/98-IR(B-II)]

B. M. DAVID, Under Secy.

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. II, MUMBAI

### PRESENT :

Shri S. B. Pansc.—Presiding Officer.  
Reference No. CGIT-2/43 of 1999.

Employers in relation to the management of  
Bank of Baroda.

The Chief Manager (P & A).  
BOB, Bombay Main Office,  
Jeejeebhoy Towers, Dalal St.,  
Fort, Mumbai-23.

### AND

Their Workman

The Joint Secretary,  
Bank of Baroda Emp. Trade Union Congress  
Flat No. 3, 79, Hindu Colony, Dadar  
Mumbai-14

### APPEARANCES :

For the Employer.—Shri L. T. D'Souza, Advocate.

For the Workmen.—Mr. Jaiprakash Sawant, Advocate.

Mumbai, dated 17th September, 1999.

### AWARD

The Government of India, Ministry of Labour, by its Order No. L-12013/64/98/IR(B-II), dated 4/10-2-1999 had referred to the following Industrial Dispute for adjudication :

“Whether the action of the management of Bank of Baroda, Bombay for non-payment of Special Assistants Allowance to Sh. D. D. Bengali for performing the duties of higher responsibilities is justified? If not, then what relief the workman is entitled to?”

2. The Bank of Baroda Employees Trade Union Congress filed a Statement of Claim at Exhibit-5. It is contended that Dilip Dhirajlal Bengali (hereinafter referred to as the workman) was appointed as a clerk by the Bank on Baroda (herein after referred to as the Bank) on 8-8-73 as a clerk. He was attached to securities department during March, 1983 to April, 1994. Two custodians are attached to strong room securities department. After the transfer of V. P. Shetty and retirement of Michael D'Souza the workman was performing the duties of custodian of strong room alongwith Mrs. Pinto and there after of Mr. J. D. Desai.

3. The union pleaded that after shifting to Securities department from Baroda House to Stock Exchange Building for shifting of securities area and to strong room he had accompanied then custodian Mr. Pinto for several days. After the death of Mr. Roosh D'Silva and Mr. Shetty Special Assistant attached to strong room no special assistant was provided. It is averred that the workman carried out their duties alongwith their out door job. Such entries were made in the classification register maintained in the strong room—securities. There are entries to that effect in the inspection notes.

4. On terms of paragraph-5.8 of the Bipartite Settlement dated 19-10-66 the workman will be entitled to special allowance, if he is required to perform duty/duties and/or undertake the responsibilities listed against the category irrespective of his designation/nomenclature or any general authority vested in him. It is therefore prayed that the workman is entitled to the special assistants allowance for performing the duties of higher responsibilities which the bank did not pay for the period from 1987 to March, 1994 with 18 per cent compound interest there on with other reliefs.

5. The Bank resisted the claim by the Written Statement (Exhibit-6). It is pleaded that the workman was discharging the duties of a clerk in that section under the instructions/directions/guidance of the departmental head. He was working in that department between 31-3-83 to 23-4-94. It is emphatically stated that in that period the workman had not performed any duties of special assistants attracting special allowance. It is therefore submitted that the claim of the union in respect of the workman is misconceived and not tenable. It is denied that the workman was doing the duties of a custodian strong room alongwith Mr. Pinto and Mr. J.D. Desai as alleged and contended. It is averred that the duties attracting functional allowance and/or special allowance have to be allotted by the banks competent authority and in the present case the workman was neither authorised verbally or in writing by any supervisory/competent authority for performing the duties attracting special allowance. It is denied that the workman was forced to perform the duties of an officer/custodian till April, 1994. It is denied that the workman is entitled to special allowance as per paragraph-5.8 of the Bipartite Settlement. It is submitted that the workman is not entitled to any claim as alleged.

6. The union filed a Rejoinder at Exhibit-8. It reiterated its contention taken in the statement of claim and denied the statement contrary to their claim in the written statement.

7. The issues are framed at Exhibit-10. The issues and my findings there on are as follows :—

Issues	Findings
1. Whether the reference suffers from Laches?	No.
2. Whether the action of the management of Bank of Baroda, Bombay for non payment of special assistants allowances to Shri D. D. Bengali for performing the duties of higher responsibilities is justified?	Yes, Not performed the duties of special assistant.
3. If not, what relief the workman is entitled to?	Does not survive.

#### REASONS

8. Pradip Joshi (Ex-11) Secretary of the Bank of Baroda Employees Trade Union Congress of which the Bank is a member deposed that workman performed additional duties of higher responsibilities of

a special assistant custodian for the purpose of operating the strong room for the period from 1987 to 21-4-94. This is denied by Dhruv (Ex-13) the Senior Manager of the Bank. It is tried to argue on behalf of the bank that the claim which is made by the workman is a delayed one. It suffers from laches. It is because it is for the period from 1987 to 1994. It is pertinent to note that workman had given the application dtd. 21-5-94 (Ex-9|2) claiming the special allowance for the above said period. This application was replied by the bank by its letter dtd. 6-6-94 (Ex-9|3). It denied the claim. Thereafter the union by its letter dtd. 18-7-94 (Ex-9|4) raised an industrial dispute. The bank by its letter dtd. 30-9-94 (Ex-9|5) informed the Assistant Labour Commissioner that there is no justification for the dispute. Thereafter again the union wrote a letter to the Assistant Labour Commissioner on 7-1-97 (Ex-9|6). From these dates it is very clear that the demand was made by the workman and his union immediately after completing the period and there was no delay. I therefore find that the claim does not suffers from laches.

9. Pradip Joshi (Ex-11) admits that he had never seen the workman working as a special assistant and custodian. It is needless to say that the person who asserts a particular thing has to come before the court and prove the same. The burden lies on him when particularly it is denied by the bank. Pravin Chandra Dhruv (Ex-13) Manager of the bank had categorical term stated that workman had never worked as special assistant and custodian in the bank and entitled for special allowance as claimed. Reasons are not given why the workman had not stopped into the witness box for proving his case. I do accept that it is not necessary that in every proceeding the concerned person is required to depose. But there are certain cases where it is necessary that the person who asserts a particular fact should depose to that effect. Here the question of doing a particular type of work and when Mr. Joshi had not seen him working the burden was on the workman to discharge it. He did not do so. It is therefore I am not inclined to accept that he was doing the work of a special assistant attracting paragraph 5.8 of Bipartite Settlement for getting the special allowance.

10. Mr. Dhruv affirms that for allotment of special assistants duties the order of the competent authority is required to be made. No such order was given to the workman to do the work of a special Assistant. As this is so obviously the workman is not entitled to the claim which is made by him. Under such circumstances I record my findings on the issues accordingly and pass the following order :—

#### ORDER

The action of the management of Bank of Baroda, Mumbai for non-payment of special assistants allowance to D. D. Bengali is justified.

S. B. PANSE, Presiding Officer.

नई दिल्ली, 4 अक्टूबर, 1999

का. अा. 3149.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक आफ इंडिया के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-99 को प्राप्त हुआ था।

[सं. एल-12012/378/90-आई आर (बी-II)]

बी. एम. डेविड, अवर सचिव

New Delhi, the 4th October, 1999

S.O. 3149.—In pursuance of the Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 1-10-99.

[No. L-12012/378/90-IR(B-II)]

B. M. DAVID, Under Secy.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 22-9-1999

#### PRESENT :

Justice R. Ramakrishna, Presiding Officer.  
C.R. No. 5/91

#### I PARTY :

Shri M. Chinnaswamy  
C/o Shri Moriswamy,  
No. 4821, Kaniyar  
Ramamandir Street  
Mysore-576 001.

#### II PARTY :

The Management of  
Central Bank of India  
represented by its Regional  
Manager,  
No. 5129, 24,  
Crescent Road,  
Bangalore-560 001.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/378/90-IR. (B-II) dated 12-2-1991 on the following schedule :—

#### SCHEDULE

“Whether the management of Central Bank of India is justified in dismissing the services of

Shri M. Chinnaswamy, Peon, Basavanagudi Branch Bangalore? If not, to what relief the workman is entitled?”

2. The first party was working as a Peon at Basavanagudi Branch of Second party Bank. A charge sheet dated 10-12-87 was issued on the following allegations :—

(1) While working as a peon at Basavanagudi Branch he forged the signature of Mr. Mallarajah who was having HSS Account No. 4955 with Basavanagudi branch and fraudulently withdrew Rs. 15000 by cheque No. 3003 on 19-11-86 with mala-fide intentions to cheat the Customer and the Bank.

(2) Similarly on 20-1-1987 he forged signature of Mr. Mallarajah, HSS Account holder (Account No. 4955) and fraudulently withdrew Rs. 4010 for issuance of a demand draft on Bangalore favouring one Mr. V. Futtappa. Thus he has misappropriated Rs. 4010 with mala-fide intention to cheat the customer and the Bank.

3. Since the allegation of charge constituted a gross misconduct under clause 19.5(j) of BPS, the domestic enquiry was instituted. The Enquiry Officer after conducting the enquiry gave his finding as per Ex. M10 deciding that both charges are proved. The Enquiry Officer relied on both oral and documentary evidence and also on two letters said to have been given by this workman marked as ME 2 and ME 3 in the enquiry.

4. Initially a preliminary issue was framed to give a finding on the validity of DE. Unfortunately this tribunal has not decided this preliminary issue though the evidence of 4 witnesses on behalf of the management and the evidence of this workman was recorded during 1993-94. However, the tribunal after re-structure has heard the arguments and gave a finding on this issue vide order dated 20-4-99. This tribunal held the validity of Domestic Enquiry was not fair and proper and thereby the second party are directed to prove the misconduct independently.

5. The learned advocate for the first party brought to the notice of this tribunal an application filed on 20-2-92 for grant of interim relief under section 10(4) of the Industrial Disputes Act. This application was examined on 25-5-99. In view of the fact that the validity of DE was held against the management, in accordance with settled principles, this tribunal, has allowed that application and directed the management to pay 50 per cent of the wages last drawn as interim relief w.e.f. 20-1-1992. The second party also directed to pay the arrears or interim relief within 30 days from the date of that order.

6. Though the case adjourned to 29-6-99, 6-8-99, 6-9-99 and 15-9-99 the second party failed to pay the interim relief and they have also failed to justify why the interim relief was not paid.

7. On 20-9-99 this tribunal took a serious note of this aspect of the matter and for want of convincing reasons the case is posted for award to this day.

8. We have also noted the submission of the learned advocate that he is intended to challenge this order before the Hon'ble High Court of Karnataka. Of course an attempt was also made by the Junior colleague that a writ petition is already filed and any moment it may come for admission. However, this tribunal felt that it is not a correct submission.

9. In fact the learned advocate for the second party obtained the order on the validity of Domestic Enquiry and the order sheet dated 25-5-1999 on 22-9-99. Therefore, it is clear that the second party have not challenged the order of this court for granting interim relief within the stipulated period. Therefore, it is too late in a day ask this tribunal to adjourn the proceedings.

10. Admittedly the order on the domestic enquiry was passed on 20-4-99. The management have not made any efforts to examine any witnesses to prove the misconduct. They also not filed any witness list to show their intention to examine the witnesses. They have also not paid the interim relief as directed by this court. They have also not filed any application giving any valid reasons for not paying the interim relief well in time.

11. It is prerogative to the management to challenge orders on the validity of DE and also orders awarding interim relief. As the management cannot take their own time to deprive this workman of his legitimate right by virtue of the orders passed by this tribunal.

12. The law is also well settled if the domestic enquiry is set aside the entire proceedings will become a nullity. Therefore, the legal fiction is that there is no order of dismissal existing until it is proved independently before this tribunal. If the misconduct is not proved within the reasonable period the obvious conclusion is the management have no case to prove the misconduct before this tribunal.

13. In view of the facts discussed above, we desist from narrating the pleadings of the parties. In the result I make the following order :—

#### ORDER

The second party are not justified in dismissing the services of this workman as they have failed to prove the justification. Consequent to this workman is entitled for reinstatement and other benefits. Therefore, the second party are directed to reinstate this workman immediately to the position he was held on the day of dismissal and he is entitled for back wages at the rate of 50 percent from the date of dismissal till his reinstatement and also continuity of service.

(Dictated to the PA, transcribed by her, corrected and signed by me on 22-9-99).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3150.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण II, मुंबई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-99 को प्राप्त हुआ था।

[सं० एन-12012/351/97-आई आर(बी-II)]

बी.एम., डेविड, अव्वर सचिव

New Delhi, the 4th October, 1999

S.O. 3150.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-II, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 1-10-99.

[No. L-12012/351/97-IR (B-II)]

B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II MUMBAI

PRESENT:

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/17 of 1998

Employers in Relation to the Management of Central Bank of India

The Chairman & Managing Director,  
Central Bank of India,  
Central Office, Nariman Point  
Mumbai-21.

AND

Their Workmen

The General Secretary,  
Central Bank Employees Association,  
Central Bank Building,  
Hutama Chowk, M.G. Road,  
Mumbai-23.

APPEARANCES :

For the Employer—Mr. L. L. D'Souza Representative.

For the Workmen—Mr. Umesh Nabar Advocate.  
Mumbai, dated 31st August, 1999



## AWARD—PART-II

On 23rd December '98 by Part-I Award I came to the conclusion that the domestic inquiry which was held against the workman was as per the Principles of Natural Justice and the findings of the inquiry officer are not perverse.

2. Now by this Award I have to answer remaining issues. The issues and my findings there on are as follows :—

Issues	Findings
1. Whether the actions of the management in dismissing Prakesh Gaikwad from his services is legal and justified?	Yes
2. If not, to what relief the said workman is entitled to ?	No.

## REASONS

3. To recapitulate the facts of the case it can be said that Prakash Gaikwad the workman was charge-sheeted on 20-3-93. He was charged to have concealed an amount of Rs. 10,000 below the urinary basin in the toilet of the Branch. He did so with an ulterior motive to utilise the same subsequently for his family need which act tantamounted to theft. This constitutes gross misconduct within the meaning of paragraph-19.5(j) or the Bipartite Settlement dated 19-10-66. The inquiry officer found him guilty of the charges levelled against him. The Disciplinary Authority accepted the reports and passed a punishment of dismissal. While submitting the report the inquiry officer referred to the medical certificate produced by the workman for the consideration of the disciplinary authority while awarding the punishment.

4. Prakash Gaikwad (Ex-28) lead oral evidence after Part-I Award. He contended that he gave a confession under mental stress and threat of prosecution by the police. He affirmed that he was not in proper frames of mind and was under treatment for giddiness and loss of memory even on 1st December '92 in as much as he was not given the fitness certificate from J.J. Hospital till 22nd December '92. He further affirmed that other employees of the bank who were charged for misappropriation were given lesser punishment. He affirmed that the bank had taken a lenient view causing hostile discrimination to him and his case was not considered at all. He affirmed that the punishment shockingly disproportionate to the charge proved. In the cross examination he admits that after the dismissal he did not try to get an employment due to ill health.

5. The management did not lead any oral evidence.

6. It is tried to argue on behalf of the management that when there is a case of misappropriation of the amount there cannot be leniency to bank employees. The bank is an institution dealing with monies of third parties. If such persons are allowed to work there then the image of the bank in the society is effected. It is further argued that in Balaji Maruthi 3078 GI/99—17.

Gadageenkar V/s. Managing Director, Maharashtra State Cooperative Land Development Bank 1997 (4) LLN 424 Their Lordships observed that the employee who is found guilty of misappropriation of public funds, Corporation, dishonesty, fraud or theft has no right whatsoever to serve in such public institutions. It is further submitted that as the workman have misappropriated the amount there should not be any leniency. I find merit in it.

7. From the testimony of the worker it reveals that he wants to make out the case that he was not in a proper frame of mind and was under a treatment and he was not given fitness certificate by the doctors of J.J. Hospital. No doubt that the doctor is not examined by the workman but so far as his sickness is concerned it is not at all challenged. Therefore it has to be presumed that he was sick at that time. But that does not means that any act which was omitted by him warrants lesser punishment. It is not that the bank compelled him to join the duties. It is the workman who himself decided to resume the duties. Naturally he is responsible for the things which are done by him.

8. In paragraph-27 of the Part-I Award I have mentioned that these medical certificates at the most can be relevant at the time of awarding the punishment and not for coming to the conclusion whether the charges are proved or not. It is not the case of the workman that he did the act when he was mentally unsound. The Learned Advocate for the management argued that the bank did not ask the workman to resume the duties but, he himself chosen to join the duties as he was feeling better. Therefore, the ground of sickness cannot be ground for awarding lesser punishment in case of misappropriation of charge. In view of this submission and the explanation I find that his sickness at that relevant time cannot be considered the ground for awarding a lesser punishment.

9. In State of Haryana & Ors Vs. Ram Kumar Mann 1997 (2) LLN 616 the Supreme Court has held that the doctrine of discrimination is founded upon existence of an enforceable right having upon found guilty of serious misconduct. It cannot be held that the workman had an enforceable right to continue in employment and as such the plea of discrimination if any would not survive. It is further observed by Their Lordships that the wrong decision by the Government does not give a right to enforce a wrong order or claim parity or equality.

10. In Balbir Chand Vs. Food Corporation of India 1997 II LLN 82 Their Lordships observed that merely because one of the officers was wrongly given lesser punishment compared to others against whom there is proved misconduct it cannot be held that they too should be given a lesser punishment lest the same mistaken view would be repeated. Relying upon the ratio given in these authorities I find no merit in the case of the workman for awarding any lesser punishment.

11. For all these reasons I record my findings on the issues accordingly and pass the following order:—

## ORDER

The order of the Central Bank of India, Mumbai dismissing Sh. Prakash M. Gaikward from his service is legal and justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3151.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-10-99 को प्राप्त हुआ था।

[सं. एल-12012/186/97-आईआर (बी-II)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 4th October, 1999

S.O. 3151.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 1-10-99.

[No. L-12012/186/97-IR(B-II)]

B. M. DAVID, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT : BANGALORE

Dated : 23rd September, 1999

## PRESENT :

JUSTICE R. RAMAKRISHNA, Presiding Officer

C.R. NO. 272/97

## I PARTY

The General Secretary,  
Indian Bank Employees Union,  
K. G. Road,  
Bangalore-560009.

## II PARTY

The Zonal Manager,  
Disciplinary Authority,  
Indian Bank, Chittoor,  
Ernakulam,  
Cochin-682 034.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/186/97-IR(B-II) dated 7-10-97 on the following schedule :—

## SCHEDULE

“Whether the action of the management of Indian Bank is justified in dismissing Sh. N. R. Prasad from services w.e.f. 30-6-98 ? If not, to what relief the said workman is entitled ?”

2. The first party was dismissed from service after he was found guilty of the charges, in the domestic enquiry conducted by the second party on the allegation of misconduct of doing an act prejudicial to the interest of the bank involving or likely to involve the bank in serious loss coming under clause 19.5(j) of the Bipartite Settlement, 1966.

3. The allegation of charge was that this workman while functioning as clearing peon of the Seshadripuram branch, on 25-3-85 a cheque No. 442137 dated 18-3-85 for Rs. 2500 drawn on State Bank of India, Byatarayanapura Branch for the credit of the proceeds in his SB Account No. 3858 with Seshadripuram Branch, the said cheque was returned in clearing by State Bank of India for the reason “Refer to Drawer”. Even though the captioned instrument was received in clearing at Bangalore City, the same has been missing at the clearing section and could not be included in the inward clearing schedule to Seshadripuram Branch on 25-3-85.

4. It is to be noted at this juncture the management conducted a pre-investigation and issued a show cause notice to this workman in respect of the facts mentioned in the charge sheet. The workman gave a representation dated 19-6-1985, marked as Ex. Mex. 8, to the management where he has admitted that the drawer of the instrument is his brother and when he came to know that the cheque was returned he took the cheque with an intention to talk to his brother and to see that the amount is credited in his account. He has also contended he has lost the instrument.

5. Obviously due to the admission made by him, it appears that he gave his reply to the charge sheet vide a letter dtd. 20-11-85 (Ex. M4), wherein he has voluntarily admitted the guilt and has undertaken to pay the sum of Rs. 2500 with interest within the month of November, 1985. He has also stated he wanted to avail the benefit under clause 19.12(a) of the Bipartite Settlement.

6. The Enquiry Officer referred the above letter to the management for further direction. Since the management have directed, that inspite of pleaded guilty, a domestic enquiry is to be conducted to prove the misconduct independently after giving opportunity to this workman, the domestic enquiry was conducted where the concerned witnesses were examined and all the relevant documents were marked as Exhibits except the disputed cheque which according to the workman was lost by him.

7. The management accepted the findings of the Enquiry Officer which according to them is proved, one on the admission made by the workman and another by the evidence recorded in the enquiry. Since the misconduct was serious in nature the workman was dismissed from service w.c.f. 30-6-86.

8. Admittedly this dispute was raised in the year 1994. After the representation of the management and their reply dated 10-10-94 the conciliation was failed and the reference is made on 7-10-97.

9. Initially the second party has questioned the maintainability of this dispute in view of the fact that the workman raised the industrial dispute 10 years after he was dismissed from service, therefore, the reference is not maintainable and the same required to be dismissed on the ground of laches committed by the workman.

10. The workman however, has not stated in his claim statement what prevented him to raise this dispute immediately after his dismissal and what are the grounds to condone the laches when admittedly he has raised the industrial dispute after a lapse of 10 years.

11. Without prejudice to the above contention, the second party has contended that the charges having being proved and the commission of such a misconduct is grave, there cannot be any order other than the order of dismissal.

12. The workman has contended in his claim statement that there is perversity in the finding of the Enquiry Officer and the action of the management is a clear case of victimisation and unfair labour practice and they have failed to look to his past services which according to him was without any blemish.

13. This tribunal has framed a preliminary issue to give a finding on the validity of DE in view of some of the contentions raised by this workman. To justify the validity, the management examined the enquiry officer as MW 1. The workman was also examined himself as WW 1. After examining the evidence of these two witnesses and also by going through the proceedings of the domestic enquiry this tribunal gave a finding in favour of the management. While giving this finding this tribunal has taken into consideration the plea of guilt made by this workman which does not require to prove the misconduct independently in view of the settled law in Shanmugam and another Vs. Hindustan Aeronautics Ltd. reported in 1992 2 LLJ page 265. This finding was found necessary as the workman has raised that the Enquiry Officer has no jurisdiction to accept the guilt on the alleged admission.

14. Initially we have to consider the maintainability of this dispute in view of the delay of 10 years in raising the dispute and also due to the fact that no plausible explanation was offered by the workman for this delay.

15. The law is well settled that laches kills a man's legal right unless it is explained with cogent materials that the delay is required to be condoned due to circumstances which was beyond the control of the workman. Since no such materials are placed we have to accept the contention of the second party and give a finding that the dispute is not maintainable due to laches.

16. If we examine this dispute on merits it is conclusively proved that this workman has committed the misconduct

alleged in the charge sheet and the same was also proved not only by his admission but also on the basis of the evidence both oral and documentary. We are not able to find any material that the management are guilty of committing victimisation and thereby lead to unfair labour practice.

17. When the validity of DE held in favour of the management and the workman failed to show any perversity in the findings of the enquiry officer, this tribunal cannot independently reappraise the evidence recorded by the enquiry officer to arrive at a different conclusion than the conclusion arrived by the Enquiry Officer.

18. The gravity of the misconduct does not give any scope to look this matter in a lenient way and also to interfere with the order of dismissal by invoking Section 11A of the Act.

19. In Kar Kar Bank of India Vs. D. D. Padmanashupdu and another, 1995 (1) LLJ page 233, Ashok Krishnali Bohare V/s. Nagpur District Central Co-op. Bank Ltd., 1993(2) CLR Bom. p. 1078, Union Bank of India V/s. Viswa Mohan, 1998 Sec. (L&S) p. 1129 SC and Rajasthan State Road Transport Corporation, Alwar V/s. Kailash Chand Sharma and another, 1995 (1) LLJ p. 268, the law laid down is that a proved misconduct of this nature, the extreme punishment of dismissal is warranted.

### ORDER

Having regard to these facts and circumstances the order of dismissal made by the second party on the proved misconduct is justified. The reference is answered accordingly

(Dictated to the PA, transcribed by her, corrected and signed by me on 23-9-99).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 1999

का.आ. 3152 :— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पोर्ट ट्रस्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-99 को प्राप्त हुआ था।

[सं. एल-29015/2/99/आई.आर. (विवाद)]

बी.एम. डेविड, अवसर सचिव

New Delhi, the 5th October, 1999

S.O. 3152.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure to the Industrial Dispute between the employers in relation to the management of Calcutta Port Trust and their workman, which was received by the Central Government on 5-10-99.

[No. L-29015/2/99-IR(Misc.)]

B. M. DAVID, Under Secy.

### ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 11 of 1999

### PARTIES :

Employers in relation to the management of Calcutta Port Trust.

AND

Their workmen.

## PRESENT:

Mr. Justice A. K. Chakravarty, Presiding Officer.

## APPEARANCES:

On behalf of Management: Mr. S. Ghosh, Deputy Labour Adviser and Industrial Relations Officer.

On behalf of Workmen: None.

STATE: West Bengal. INDUSTRY: Port & Dock.

## AWARD

By Order No. L-29015/2/99-IR(Misc.) dated 3-5-99 the Central Government in exercise of its powers under Sections 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

"Whether the following demands raised by Haldia Calcutta Port Shramik Union, 31, Stephen House, 6th Floor, 4 BBD Esq., Calcutta-700001 against the management of Calcutta Port Trust is justified?"

- (1) Holiday @ 13 days per year per worker w.e.f. 1-1-71 to the date on which he was made regular.
- (2) Project Allowance @ 10 per cent w.e.f. 1-12-74 to the date on which they were made regular.
- (3) Encashment of leave on the accumulation of E.L. from 1979 to the date on which they were made regular.
- (4) Earned Leave @ 12 days per year w.e.f. 1-4-1971 to 31-12-72 and 9 days per year w.e.f. 1-1-72 to 23-2-1983.
- (5) Continuity of service for Gratuity, Pension, Encashment of Leave, Leave, Project Allowance, Seniority etc.

If so, to what relief the concerned workmen are entitled?"

2. When the case is called out today, management appears through its representative but none appears on behalf of the union. From the letter of the President of the sponsoring union dated 20-7-1999 it appears that it had received the notice of the Tribunal and prayed for keeping the proceeding in abeyance till the Central Government issues corrigendum of the schedule under reference, which according to the union has not been properly framed. None moved the application and no step is also taken by the union to show why any amendment of the schedule is needed. The Tribunal also cannot keep any matter in abeyance for an indefinite period without ascertaining from the parties personally the steps they are going to take in the matter. In the aforesaid circumstances, the sponsoring union must be deemed to be not interested in the matter requiring the Tribunal to dispose of the reference.

3. The union being thus not interested to proceed any further in the matter and as such in the absence of any material whatsoever for decision in respect of the schedule under reference, this Tribunal has no other alternative but to pass a "No Dispute" Award.

4. A "No Dispute" Award is accordingly passed and the reference is disposed off.

This is my Award.

Dated, Calcutta.

the 21st September, 1999.

A. K. CHAKRAVARTY, Presiding Officer.

नई दिल्ली, 5 अक्टूबर, 1999

का.आ. 3153.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार भारत मोल्ड मार्टिन्स लि., के प्रबंधक के संबन्धितों और उनके कर्मचारों के बीच अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार

औद्योगिक अधिकरण बंगलूर के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-99 को प्राप्त हुआ था।

[सं.एल-43012/9/90-आई.आर. (विवाद)]

बी.एम. डेविड, अवसर सचिव

New Delhi, the 5th October, 1999

S.O. 3153.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bharat Gold Mines Ltd., and their workmen, which was received by the Central Government on 5-10-1999.

[No. L-43012/9/90-IR(Misc.)]

B. M. DAVID, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated: 24-9-1999

## PRESENT:

Justice R. Ramakrishna, Presiding Officer.

C.R. No 61/90

## I PARTY

V. Rajarathnam,  
Foreman II,  
C/o Bharat Gold Mines Employees  
Union,  
Merikuppam,  
KGF-563119.

## II PARTY

The Chairman-cum-  
Managing Director,  
Bharat Gold Mines Ltd.,  
Suvarna Bhavan,  
Gorgaum, KGF-563120.

## AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-43012/9/90-IR (Misc.) dated 25-10-90 on the following schedule:

## SCHEDULE

"Whether the action of the management of BGML, KGF in dismissing Sri V. Rajarathnam, Foreman employed in N. D. Mine, from service with effect from 26-12-1989 is justified. If not, to what relief is he entitled?"

2. The first party was dismissed from service after conducting a domestic enquiry on the allegation of theft of the articles belonging to the company which was detected on 26-7-1989 at about 6.30 PM. The said act was as serious misconduct under Standing Order No. 15B(34) and C. The first party, after this dispute was referred to this tribunal, has filed his claim statement. Initially he has questioned the validity of DE. As it regards to the present dispute the contention of the first party is that he was earlier dismissed from service w.e.f. 15-10-82 on a proved misconduct but however, on a reference this tribunal passed an award on 6-11-87 holding that his dismissal was not justified. A direction was given for his reinstatement, continuity of service and other consequential benefits but without back wage. He has claimed back wages in a writ petition before the Hon'ble High Court of Karnataka in W.P. 18490 of 1988.

3. His further contention is that his date of birth was wrongly recorded and therefore, the second party issued a notice for retirement on superannuation w.e.f. 1-1-90. He has challenged the said superannuation notice before the court of Munsif at KGF in O.S. 273 of 1989 and obtained an order of injunction. Therefore, his contention is that a false case was filed against him due to lawful activities.

4. The second party in their counter statement have accepted his dismissal for earlier offence, than the order of this tribunal and consequent reinstatement. They have denied that a writ petition for back wages filed by the first party made the management to take coercive steps. They have also contended that the domestic enquiry was conducted in all fairness and the report of the Enquiry Officer was legally justifiable.

5. However, this tribunal framed a preliminary issue to give a finding on the validity of DE. After recording the evidence of the enquiry officer and this workman, my predecessor gave a finding on 18-10-93 against the management. By virtue of this order, the second party was directed to prove the misconduct by adducing the evidence independently. An interim relief of 50 per cent was also ordered on 30-12-93 to be payable w.e.f. 18-10-93.

6. In fact the second party filed an application IA No. 3 to review the order dated 13-12-93 on the ground that the first party would have retired on attaining his age of superannuation on 31-12-89, therefore, the question of paying interim relief subsequent to 31-12-89 will not arise. However, my learned predecessor has disallowed this application on the ground that the first party is entitled for interim relief till the dispute is finalised.

7. After setting aside the validity of domestic enquiry the management was able to examine one witness only. This witness was examined on 10-12-98. This witness is a watchman who is responsible for detecting the theft of the first party. He has stated in his evidence that on 26-7-89 he was doing second shift which was from 6 PM to 2 PM. At about 6.30 PM the first party was coming out from mines on a TVS two Wheeler. He stopped the scooter and told him that he wanted to search him but the first party refused to allow him to search on the ground that he was an officer. The first party was continued to argue with him and he was also told him to contact the higher officer. But he was not inclined to leave him without search of two boxes which was attached to the TVS. After some time in spite of his protest the first party entered the gate and removed some articles from the box and threw away. He collected these articles and kept on the table. The articles are six pieces of copper wires. In spite of request this workman was not allowed to move as he wanted to inform the officer. After his telephone at about 9.30 PM his officer Shri Ramachandra and Sundarraji visited the place. Thereafter a report was written by the officer. After recording his statement the first party along with the materials were taken inside, to watch and ward department.

8. In the cross examination it is elicited that he is not able to give the registration number of the TVS and its colour. It is further elicited one Sri Sunder Raj was his superior officer on that day. He denied the suggestion that at the instance of Sunder Raj a false case was filed against the first party. He has denied other suggestion involving the first party. He has identified his signature on the complaint Ex. M10.

9. It should be noted with regret that due to setting aside of domestic enquiries on the procedural aspect of the matter the management has to prove the misconduct by placing independent evidence. This tribunal was also very generous in granting adjournments for this purpose. The workman will not show their interest for the progress of the case as they will be conveniently taking 50 per cent of the remuneration towards back wages. In fact this workman is enjoying the benefit of back wages from the year 1993 onwards though his superannuation date was 31-12-1989 i.e. service of 5 days only. Of course this is the letters of law.

10. Now coming to the merits of the case the management was able to examine only one witness to prove the misconduct against this workman. The misconduct is of the year 1989. The witness was examined in the year 1999. The management was not able to secure other witnesses due to

long lapse of delay some of the witnesses retired from service and some may be retired from this world.

11. I carefully gone through the evidence of MW 2, on a scrutiny I do not find that this witness is not stating the truth. In the cross examination nothing much was elicited except to say that he was falsely implicated by his officer Sunder Raj.

12. To prove an offence, law does not envisage that almost all the witnesses required to be examined. It is by prudence that there should be corroboration. But corroboration in all cases is not necessary. If the evidence of a single witness is acceptable there is no impediment for the court to accept and made order on the basis of the said evidence. Therefore I am of the view that an order can be made even on the evidence of a solitary witness. In the result I make the following order :—

#### ORDER

The second party are justified in dismissing the services of this workman for proved misconduct. The reference is answered accordingly.

(Dictated to the PA, transcribed by her, corrected and signed by me on 24-9-1999.)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 1999

का.प्रा. 3154.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार में भवानीदास एंड सन्स के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निरिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम नियंत्रण मं.-I, मुंबई के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-99 को प्राप्त हुआ था।

[सं.एल-31012/6/91-आई.आर. (विधि)]

बी.एम. डेविड, अवर सचिव

New Delhi, the 5th October, 1999

S.O. 3154.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Bhawanidas and Sons and their workman, which was received by the Central Government on 5-10-99.

[No. L-31012/6/91 IR(Misc.)]

B. M. DAVID, Under Secy.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

Reference No. CGIT-65 of 1991

#### PRESENT :

Shri Justice C. V. Govardhan, Presiding Officer.

#### PARTIES :

Employers in relation to the management of M/s. Bhawanidas and Sons, Bombay.

AND

Their Workmen.

## APPEARANCES :

For the Management : Shri A. K. Kakkad.

For the Workman : Workman present in person with his Advocate Shri B. K. Ashok.

State : Maharashtra.

Mumbai, dated this the 21st day of September, 1999

## AWARD

The Government of India by its order dated 6th August, 1999 has referred the following dispute between the management of M/s. Bhavanidas and Sons, Bombay and their workman for adjudication by this Tribunal :

"Whether the management of M/s. Bhavanidas and Sons, a Custom House Agents—were justified in suspending and terminating the services of Shri Rajaram Laxman Kashid, Dock Clerk; unilaterally w.e.f. 17-4-86—when the workman had put in unstinted continuous service of 15 years? If not, to what relief is the workman entitled to?"

On the date of hearing, i.e. today both the parties appeared before this Tribunal and filed a joint memo and states that they have negotiated over the pending reference and amicably resolved in full and final terms out of this Tribunal.

So the second party workman is not pressing for the reference and prayed that the reference be disposed off as finally settled. The memo has been signed by Shri A. K. Kakkad, for first party company, Shri Kashid, Second party workman and his Advocate Shri B. K. Ashok respectively. Therefore the matter is disposed off as settled and an award is passed accordingly.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 1999

का.सा. 3155:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में. कंटेनरवे इन्टरनेशनल लि., के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/थम न्यायालय कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-99 को प्राप्त हुआ था ।

[सं. एल-32012/2/97-आई.आर. (विवाद)]  
बी.एम. डेविड, अवर सचिव

New Delhi, the 5th October, 1999

S.O. 3155.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. Containerway International Ltd., and their workman, which was received by the Central Government on 5-10-1999.

[No. I-32012/2/97-IR (Misc.)]

B. M. DAVID, Under Secy.

## ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

Reference No. 15 of 1998

## PARTIES :

Employers in relation to the management of M/s. Containerway International Ltd.

## AND

Their workmen.

## PRESENT :

Mr. Justice A.K. Chakravarty, Presiding Officer.

## APPEARANCE :

On behalf of Management—None.

On behalf of Workmen.—Mr. G. C. Chakraborty, Advocate.

STATE : West Bengal.

## AWARD

INDUSTRY:

By Order No. L-32012/2/97-IR(M) dated 16-4-1998 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of M/s. Containerway International Limited in terminating the services of Shri T. N. Tiwari w.e.f. 7-2-1996 is justified? If not, to what relief the workman is entitled?"

2. Present reference was disposed of by this Tribunal on 28th July, 1998 by passing a "No Dispute" Award. Subsequently on the prayer of the sponsoring union that "No Dispute" Award was recalled and the reference was restored to its file and number by order dated 7-1-1999.

3. Heard Mr. G. C. Chakraborty, learned Advocate for the union regarding maintainability of the reference.

4. Management of M/s. Containerway International Limited is the industry in respect of the present industrial dispute. The Central Government having referred this dispute for adjudication before this Tribunal, the question is whether the Central Government is the 'appropriate government' in referring the dispute under section 10(1) of the Industrial Disputes Act, 1947.

5. 'Appropriate government' is defined in section 2(a) of the Industrial Disputes Act, 1947 and it will appear therefrom that the present employer M/s. Containerway International Limited is not an industry carried on by or under the authority of the Central Government. Mr. Chakraborty, learned Advocate appearing on behalf of the union frankly submitted that it is not an industry carried on by or under the authority of the Central Government. The definition of 'appropriate government' also does not show that the Central Government has got anything to do with the present employer/industry. Accordingly, the Central Government cannot be said to be the appropriate government in referring the present dispute for adjudication to this Tribunal. It appears that the Tribunal constituted by the State Government shall be the proper forum for adjudication of this industrial dispute.

6. In the aforesaid state of affairs Central Government being not the 'appropriate government' in respect of the present industrial dispute, this Tribunal has no jurisdiction to entertain the matter. The reference is accordingly disposed of as not maintainable. The union, however, shall be at liberty to raise the industrial dispute before the proper forum, if it deems it necessary.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer

Dated, Calcutta,

The 21st September, 1999.

नई दिल्ली, ८ अक्टूबर, १९९९

का. प्रा. 3156:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्र सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधन के संबंध में, केन्द्र सरकार के अधिकारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-99 को प्राप्त हुआ था ।

[सं.एल.-31012/3/97/-आई.आर. [(विविध)]]

बी.एम. डेबिड, अधर सचिव

New Delhi, the 8th October, 1999

S.O. 3156.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mumbai Port Trust and their workman, which was received by the Central Government on 5-10-99.

[No. L-31012/3/97-IR(Misc.)]  
B. M. DAVID, Under Secy.

## ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL NO. 1, MUMBAI

**PRESENT :**

Shri Justice C. V. Govardhan, Presiding Officer.

REFERENCE NO. CGIT-37 OF 1997

**PARTIES :**

### Employers in relation to the management of Mumbai Port Trust

AND

## Their Workmen

**APPEARANCES:**

For the Management : Mr. M. B. Anchan, Advocate.

For the Workman : Mr. Jayprakash Sawant, Advocate.

STATE : Maharashtra.

Mumbai, dated the 24th day of September, 1999

## AWARD

1. The Central Government by its order dated 14-5-97 has referred the following dispute between the Employers in relation to the management of Mumbai Port Trust and their workmen for adjudication by this Tribunal.

"Whether the action of the management of Mumbai Port Trust in not confirming Shri B. J. Rathod, Store-keeper, in the post of Clerk 'A' Scale w.e.f. 30-3-73 and not giving him seniority and consequential benefits is justified? If not, to what relief is the workman entitled?"

2. The averments in the Statement of Claim is as follows: the workman. The management did not rectified the mistake in the Stores Department. As per the channel of promotion Clerk 'B' scale is promoted to Clerk 'A' scale. Clerk 'A' scale is promoted to the post of Asstt. Superintendent and Asstt. Superintendent is promoted to the post of Office Superintendent. Clerical staff of the Stores Department was divided into Administrative Wing and Store Keeping Wing. The Store Keeping Wing was provided with channel of promotion

from the post of Asstt. Store Keeper to the Store Keeper and from Store Keeper to Asstt. Depot Superintendent and Asstt. Superintendent to Depot Superintendent. The workman has worked in the promotion post of Clerk 'A' scale from time to time during 20th March 1967 to 20th February 1983. From 1st April 1972, he was working in the vacant post of Clerk 'A' scale. He was entitled for further promotional post but the management disturbed the seniority in the year 1973 and Mr. Pereira who was a junior in service to the workman was promoted to the post of Clerk 'A' scale and given seniority over the workman w.e.f. 20-3-1973. It is illegal and unjustified. It has affected the service conditions of the workman. The management did not rectified the mistake in spite of repeated request. The workman therefore, prays that the action of the management in not treating the workman as confirmed in the post of Clerk 'A' scale and allowing Mr. Pereira, his junior to supercede the workman w.e.f. 20-3-73 is illegal and unjustified. The management may be directed to retain the seniority of the workman and give him consequent benefits.

2. The Mumbai Port Trust in their Written Statement contends as follows :

The workman is claiming his seniority from 20-3-3 after a lapse of 24 years. There is considerable delay in the part of the workman. Therefore, he is not entitled for any relief. The channel of promotion stated by the workman is correct. Promotion from 'B' Scale to 'A' Scale was regulated in the ratio of 1 : 2 i.e. 1 direct recruitment is to 2 by promotion on seniority basis. Further, promotion in Class III cadre are based on the seniority fixed in the respective feeder post in the cadre. In the year 1985 Store Keeping Wing was created from out of the existing Clerical cadre and new appointments were also made by transfer from existing staff. The workman officiated as Class 'A' scale from 23-3-67 for broken periods against leave vacancies as well as temporary post. He was confirmed as Clerk 'A' scale w.e.f. 1-8-77 against the permanent vacancy. He was promoted as Senior Asstt. w.e.f. 1-3-83. Mr. Pereira was appointed as Clerk 'A' Scale against the permanent vacancy w.e.f. 20-3-73 after passing Internal Merit Examination and his inter se seniority was fixed according to rotation of vacancies based on the quota of vacancies in the grade reserved for employees from Internal Merit List and promotees. There is no error in fixing the seniority of the workman. The workman has come up with a grievance with regard to fixing his seniority after a lapse of 24 years. Many employees were promoted within this period. If the seniority of the workman is changed there will be serious repercussions as promotions of the other employees will be disturbed. It is denied that the seniority of the workman is disturbed in the year 1973 by permitting Mr. Pereira as Clerk 'A' scale who was junior to him. Mr. Pereira was promoted and appointed on account of his passing the I.M.L. list. The claim of the workman is belated and not justified and is therefore, to be rejected.

3. The workman in his rejoinder contends that the principle of estoppel is not applicable to industrial adjudication and he was working in the vacant post of Clerk 'A' scale continuously from 1st April 1972. The workman reiterated that he is entitled to be confirmed in the post of Clerk 'A' Scale w.e.f. 1-4-72 the date from which the workman was continuously working in the post of Clerk 'A' Scale or atleast from 20-3-1973, the date on which Mr Pereira junior to him was promoted to the post of Clerk 'A' scale.

4. The following issues arise for consideration:

(i) Whether the action of the Mumbai Port Trust in not confirming Shri T. B. Rathod, Store Keeper in the post of Clerk Grade 'A' w.e.f. 20-3-1973 and not giving him seniority and promotion is justified?

(ii) Whether the workman is entitled to the relief claimed by him?

(iii) What orders ?

Issue No. 1:

The workman who has joined the Stores Deptt. of M.P.T. on 18-5-1965 in Clerk 'B' scale has now come forward with this dispute contending that he has officiated in Clerk 'A' scale which is promotion post from 20-3-1967 to 20-2-1983

and yet his seniority is disturbed in the year 1973 when his junior Mr. Pereira was promoted in the post of Clerk 'A' scale and given seniority above him w.e.f. 20th March, 1973 and therefore, the action of the management of MPT in not confirming him in the post of Clerk grade 'A' w.e.f. 20-3-73 giving him due seniority is not justified. It is the version of the management that promotion from 'B' scale to 'A' scale was regulated in the ratio of 1:2 i.e. 1 direct recruitment I.M.L. is to 2 on promotion on seniority basis and Mr. Pereira was promoted and appointed as Clerk in the 'A' scale in a regular vacancy in a permanent post from the IML List prepared and therefore, the workman cannot have any grievance even though he was acting temporarily during the leave vacancy during the relevant period. It is the case of the management that the workman herein in a candidate coming under the category of 'B' scale who is to be promoted to the 'A' scale on seniority basis while Mr. Pereira comes under the category of direct recruitment and therefore, the workman cannot have any grievance. According to the management, direct recruits shall be ranked inter se in the order of merit in which they are placed at the examination, on the results of which they are recruited and the recruits of the earlier examination or interview being ranked senior to those of a later examination or interview. Even among the qualified persons for direct recruitment those who got qualified at an earlier point of time is to be treated as a senior. The claim of the workman who has not qualified himself by passing the IML test and who makes a claim for 'A' scale only on the basis of his seniority fixed in the feeder post namely 'B' scale does not appear to be a reasonable demand. It may be that Mr. Pereira was a junior to the applicant at the time of appointment as 'B' scale clerk but once he passes the Internal Merit Examination which the workman herein has not passed there appears to be no error in the management placing Mr. Pereira as a senior to the workman herein, in view of the ratio adopted for promoting persons 'B' scale to 'A' scale. The workman herein has been examined as a witness. He has stated that Mr. Pereira was appointed as Clerk 'B' scale on 19-1-67 and his demand is that Mr. Pereira has superseded him and therefore, his seniority must be restored and he should be entitled to be retained in the Asstt. Depot Superintendent from 30-10-1993 and to receive all consequential benefits being senior in service to Mr. Pereira. According to the workman he is challenging his promotion to the post of 'A' scale Clerk in the year 1973 which he did not challenge in the year 1973. It is admitted by him that when he was promoted to the post of Senior Asstt. he had no grudge over Mr. Pereira and Mr. Pereira has passed Internal Merit Examination in the year 1973 and he had superseded him on account of his passing the Internal Merit Examination. When the workman has conceded that supersession of Mr. Pereira on account of his passing the I.M.E. There appears to be no ground for the workman to raise this dispute at all. It is more so when Mr. Pereira was appointed in the post of Clerk 'A' grade w.e.f. 20-3-73 i.e. about 24 years prior to the raising of this dispute.

5. The learned counsel for the workman Mr. J. P. Sawant has argued that the letter dated 13-2-1979 from the Administrative Office would show that the Heads of Department are at liberty to fill the reserved vacancies by appointing departmental candidates according to the seniority list if it is a case of non-availability of IME candidates and IME candidates appointed subsequently from a later date will not get advantage of seniority over the departmental candidates appointed earlier. This is only an internal correspondence issued by the Administrative Office to the various Heads of Department in the Mumbai Port Trust on a representation made by the Senior 'B' scale Clerks who are officiating as 'A' scale clerks. It cannot be given a statutory value at all. The workman has not challenged the appointment of Mr. Pereira as a Senior to him in the 'A' scale clerk category when the said appointment was made. He has even admitted that he had no grudge against Mr. Pereira when he was posted to the post of Senior Assistant. Mr. Pereira was a Clerk in the 'A' scale in 1973 and this seniority is now sought to be disturbed by the workman only on account of his reversion from the post of Asstt. Depot Superintendent to the post of Store Keeper. The learned counsel appearing for the Mumbai Port Trust Mr. M. B. Anchan has argued that the claim made by the workman with regard to the seniority is a belated one and he had kept quiet for more than 24 years and his claim suffers from laches and it cannot be entertained. Mr. Anchan relies upon the decision

reported in 1987 Supreme Court cases (Lab) page 6 between K. R. Mudgal and others Vs. R. P. Singh and Others wherein the Supreme Court has held that promotions should not be disturbed after a long lapse of time, that the Courts should not entertain petitions challenging seniority after inordinate delay and that the High Court is not justified in rejecting preliminary objection based on laches is raised on a challenge to the seniority list made after 18 years. The Supreme Court has held that the appellant before their lordship had put to the necessity of defending their appointments as well as their seniority after nearly three decades and this kind of fruitless and harmful litigation should be discouraged. When we approach the case on hand in the light of the above decision, I am of opinion that the stand taken by the management that the dispute raised by the workman is liable to be rejected on the ground of laches itself is well founded. The learned counsel appearing for the workman relied upon the decision reported in 1996 LIC page 2718 between Hari Om Verma Vs. State of Punjab and others wherein it has been held that continuous officiation in post of Assistant is determining factor. There cannot be any dispute over the above proposition if the dispute raised by this workman is one challenging the posting of somebody else who is a junior to him in the feeder post. In the case on hand Mr. Pereira being one coming under the category of direct recruits for the post of 'A' scale Clerk by virtue of his passing the Internal Merit Examination test the officiating of the workman herein in the 'A' scale category cannot be given any weight. Therefore, the ruling relied by the learned counsel appearing for the workman cannot be made applicable to the case on hand. Considering the various aspects I hold on Issue No. 1 that the action of the Mumbai Port Trust in not confirming Mr. Rathod, Store Keeper in the post of Clerk 'A' grade w.e.f. 20-3-73 and not giving him seniority and promotion is justified.

Issue Nos. 2 and 3 :

In view of my finding on Issue No. 1 I hold on these issues that the workman is not entitled to any relief.

In the result, an award is passed holding that the action of the Mumbai Port Trust in not confirming Mr. Rathod, Store Keeper in the post of Clerk 'A' grade was 20-3-73 and not giving him seniority and promotion is justified.

C. V. GOVARDHAN, Presiding Officer

नई दिल्ली, 8 अक्टूबर, 1999

का.आ. 3157:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार यद्यपि पोर्ट ट्रस्ट के प्रबंधन के संबंध में निषिद्ध और उनके कर्मचारियों के बीच, अन्वय में निषिद्ध औद्योगिक विवाद में औद्योगिक अधिकरण, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-1999 को प्राप्त हुआ था।

[सं. एल-33011/1/95-आई.आर. (विविध)]

बी.एम. डेविड, अवैर सचिव

New Delhi, the 8th October, 1999

S.O. 3157.- In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Madras Port Trust and their workman, which was received by the Central Government on 5-10-99.

[No. L-33011/1/95-IR(Misc.)]

B. M. DAVID, Under Secy.



## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU,  
CHENNAI

Wednesday, the 28th day of July, 1999

## PRESENT:

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal.  
Industrial Dispute No. 72 of 1995

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the management of Madras Port Trust.)

## BETWEEN

The workmen represented by

The General Secretary, Madras Port Trust Employees' Union, "S.G.C. Anthony Pillai Bhavan", 9, Second Line Beach, Madras-600001.

## AND

The Chairman, Madras Port Trust,  
Rajaji Salai, Madras-600001.

## REFERENCE:

Order No. L-33011/1/95-IR(Misc.) dated 30-10-95 Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing on Tuesday, the 18th day of June, 1999, upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Tvl. R. Ganesan, V. Gangatharan and R. Rengaramanujam, advocates appearing for the workmen and of Tvl. R. Arumugam and N. Krishnakumar, advocates appearing for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following:

## AWARD

This reference has been made for adjudication of the following issue:

"Whether the action of the management of Madras Port Trust in denying the time-scale promotions to those SC/ST Stenographers who could not acquire the revised educational qualifications though their educational qualifications were relaxed at the time of recruitment is justified? If not, what relief are the workmen entitled to?"

2. The main averments found in the claim statement filed by the petitioner are as follows:—The petitioner union represents the majority employees of the Madras Port Trust. This dispute is in respect of SC/ST Stenographers, who were denied time scale promotions in violation of the 18(1) Settlement dated 24-3-1978 with regard to the Scheme of Grouped posts. Under this scheme an employee in the Lower Grade of the concerned group in the concerned department will be eligible to be automatically promoted to the higher grade in the group subject to his work and conduct in the lower grade being considered satisfactory by the Administration, without vacancy having to arise in the promotional post. The orders of Government relating to Reservation in promotions under this scheme also, in a reserved vacancy the SC/ST employee even though he has not completed the period of service specified in the Annexures for the concerned group, entitling him to automatic promotion, would also be listed as eligible to be promoted, if he satisfies the conditions prescribed for promotion in the 'Manner of Appointment' for the concerned post, and his work and conduct are satisfactory. In respect of promotions within a group the prescribed Educational qualifications for promotion to the higher or highest grades will not be insisted upon. The above scheme came into force from 1st January, 1978. The petitioner union states the channel of promotion in the Stenographer cadre is as under:

Private Secretary to Chairman: Class I.

Personal Assistant: Class II.

Stenographer Gr. I: Class III.

Stenographer Gr. II: Class III.

Stenographer Gr. III: Class III.

It can be seen, the Stenographer Gr. III, and Gr. II come under the same group of posts, as per the Settlement. As per the scheme and the agreement, on completion of 8 years, Stenographer Gr. III will automatically be entitled to be promoted to Stenographer Gr. II. As on the date of the above settlement, as per the manner of Appointment as stood on that date, the qualification prescribed for the post of Stenographer Gr. III was S.S.L.C., Shorthand English Lower and Typewriting English Higher. However, after the settlement, the Manner of Appointment was changed requiring the qualification that the incumbent in Gr. III should be a Graduate and should have passed Shorthand Higher Grade Examination in English and Typewriting Higher Grade in English. During 1979, the following candidates were appointed as Stenographer Gr. III relaxing the prescribed qualification:

1. Smt. G. Malliga (SC).
2. Smt. S. P. Rajalakshmi (SC).
3. Sri S. Sundararajan (SC).
4. Sri L. Murthy Rao (OC).
5. Shri Md. Akbar (OC).
6. Smt. R. Venkateswari (SC).
7. Sri K. S. Govindarajan (OC).
8. Shri B. Chengalvarayan (OC).

During 1981, Shri S. Ganesh Rao (OC), Shri K. Neelakantan (OC), Smt. G. Malliga (SC) and Smt. S. P. Rajalakshmi (SC) were empanelled for promotion to the post of Stenographer Grade II (2 O.C. plus 2 S.C.) on completion of 8 years as per the Settlement and against the roster points, the respective candidates were included in the panel as per para (6) of the Settlement. However, Sri S. Ganesh Rao was promoted as Stenographer Gr. II on 23-4-81 and Sri K. Neelakantan was promoted on 12-5-81. But Smt. G. Malliga and Smt. S. P. Rajalakshmi were not promoted against the roster points. Sri S. Ganesh Rao had passed only SSLC., Shorthand Lower and Typewriting Higher. He did not possess Degree and Shorthand Higher Grade Qualification. But he was promoted Sri K. Neelakantan though a Graduate, had passed Shorthand Lower only, but he was promoted. But Smt. G. Malliga had passed P.U.C., Shorthand Lower and Typewriting Higher and Smt. S. P. Rajalakshmi possess S.S.L.C., Shorthand Lower and Typewriting Higher, were not promoted. In the panel for 1984, Sri D. Munirathinam (OC) and D. Balachandran (OC) and V. Divakaran (ST) were empanelled. Shri D. Munirathinam with B. Com. Shorthand Lower Typewriting Higher was promoted on 1-7-84. Sri D. Balachandran with B. Com., Shorthand Lower and Typewriting Higher was promoted on 1-7-84. But Sri V. Divakaran (ST) with P.U.C., Shorthand Lower and Typewriting Higher was not promoted. During 1985, Sri Md. Iqbal Ahmed (OC), Sri Joseph Micael Vincent (OC), Smt. P. Meenakshi (OC) and Sri S. Sundararajan (SC) were empanelled for Stenographer Gr. II Shri Md. Iqbal Ahmed with B.A., Shorthand Lower, Typewriting Higher was promoted on 7-8-85, Sri S. Joseph Michael Vincent with B. Com., Shorthand Lower and Typewriting Higher was promoted on 14-9-95. Smt. P. Meenakshi with B. Com., Shorthand Lower and Typewriting Higher was promoted on 24-12-85. But Sri S. Sundararajan with B.A., Shorthand Lower and Typewriting Higher was not promoted. It may be mentioned that when they were appointed to Stenographer Gr. III, relaxation of qualification was given to all of them irrespective of community. It can be seen from the above that two different standards were adopted by the Madras Port Trust Administration in the case of OC candidates, even though they did not possess the prescribed qualification as per the amended Manner of Appointment they were promoted while in the case of SC/ST candidates it was insisted upon that they should possess the prescribed qualification as per the amended Manner of Appointment and because they did not possess the prescribed qualification as per the amended Manner of Appointment they were not promoted, even though they were included in the panel. The different yard-sticks adopted by the Madras Port Trust would def-

nately amount to discrimination within the meaning of Article 14 and 16 of the Constitution of India. It could also be seen that the denial of promotion to the Stenographer Gr. II to the SC/ST candidates who were included in the panel for 1981, 1984 and 1985 will amount to violation of the provision of 18(1) Settlement. Since the prescribed qualification was relaxed even at the time of the appointment to Stenographer Gr. III in the year 1979, it is not open to the management to insist on prescribed qualification as per the amended manner of appointment. The explanation of the Management for promoting the SC candidates who have not got the prescribed qualification as per the amended Manner of Appointment was that they were pre-1978 recruits having put in 8 years of service. But the SC candidates had not put in 8 years of service and therefore they were not promoted. This explanation is untenable and because the scheme as per the Agreement itself provides that the SC/ST candidates can be promoted against their quota even if they do not complete 8 years of service and it is enough as per the scheme if the SC/ST candidates had completed 2 years of service for promotion to the Stenographer Gr. II post under the scheme of Grouped posts. Even this 8 years rule was not followed in the case of Smt. R. Malarkodi (SC) candidate, even after completion of 8 years of service in Stenographer Gr. III, she was not considered for promotion to Stenographer Gr. II. The Profile on General information by the Committee on Subordinate Legislation, Rajya Sabha dated 11-7-94, it has been mentioned that several relaxation and concessions have been extended by the Madras Port Trust to the candidates belonging to SC and ST. It states as an example :

"For Direct Recruitment, experience and qualification are relaxed (suitable provision in this regard has been made in the manner of appointment, Recruitment Rules)".

It is further stated as follows :

"Under the 'Scheme of Skilled Categories' and 'Scheme of Grouped posts', where other community employees are required to put in a service of 8 years or 6 years or 5 years as the case may be to qualify themselves for promotion to a higher category, this qualifying service is relaxed in respect of Scheduled Caste/Scheduled Tribe employees and they are being considered for promotion if they are approved probationers (2 years service)".

But contrary to the above declaration in the profile the Management of Madras Port Trust has acted arbitrarily in denying promotions to the SC/ST candidates during 1981, 1984 and 1985 as said above. In fact they were given promotions only during 1987 as Stenographer Gr. II, but they should have been given promotion when they were included in the panel in the respective years. The petitioner raised the dispute before the Regional Labour Commissioner on 13-3-95, but the respondent maintained that they have not committed irregularities. Even though the Regional Labour Commissioner pointed out certain deviations from the respondent the management did not accept his suggestion for even granting 'Notional promotion' to the SC/ST candidates from the inclusion of the panel. He therefore, sent Conciliation Failure Report to the Government. The action of the management is denying the time scale promotion to the SC/ST candidates is unjust, arbitrary or illegal. It is not only in violation of article 14 and 16 of the Constitution of India but also against the Manner of Appointment as well as the scheme of grouped posts agreed to under the 18(1) Settlement. The petitioner prays to pass an Award holding that the action of the respondent management in denying the Time Scale promotions to SC/ST Stenographers who could not acquire the educational qualifications which were relaxed at the time of recruitment is not at all justified and to direct the respondent to promote them from the date of inclusion in the panel with all consequential and attendant benefits.

3 The main averments found in the counter statement filed by the respondent are as follows : The dispute is not maintainable since it is the prerogative of the Management to promote an employee to a higher post and the petitioner has no locus standi to raise the promotion issue. The above dispute is also to be dismissed in limine since the stenographers are not workmen as defined in Section 2(5) of Industrial Disputes Act. The Scheme of Grouped posts was introduced w.e.f. 1-1-78 based on a settlement reached with Madras Port Trust

Employees Union according to which an employee in the Lower grade of the concerned group of posts in the concerned department will be eligible to be promoted to the higher grade in the group on the completion of the prescribed period of service specified in the Annexures attached to the said scheme for the concerned group subject to his work and conduct in the lower grade being considered satisfactory by the Administration without a vacancy having to arise in the promotional post through a process of natural wastage or on account of any other reason. The said scheme has been in operation and regulated under the provisions of Regulation 9 of the Madras Port Trust Employees (Appointment, Promotion etc.) Regulations, according to which in the case of the posts to be filled in by promotion on the basis of seniority subject to fitness, the appointing authority is empowered to draw the panel consisting of the employees suitable for promotion to the promotional post and the panel should be operated duly publishing the same on the Notice Boards for 15 days for enabling the aggrieved employees if any to appeal to the Deputy Chairman. If there is any appeal the promotions shall be effected only after the appeal is disposed off by the Deputy Chairman. The avenue of promotion for the Stenographer cadre in the Trust is as under :

Private Secretary to the Chairman	(Class I)
Personal Assistant	Class-II
Stenographer Grade-I	Class-III
Stenographer Grade II	Class-III
Stenographer Grade-III	Class-III

Prior to 1978 for appointment to the post of Stenographer Grade III which is a direct recruitment post the qualifications prescribed were (i) passed S.S.L.C., (ii) passed Shorthand English (Lower) and (iii) passed Typewriting English (Lower). The promotion to the post of Stenographer Grade II was against the vacancies in the Category but the required qualifications were typewriting and Shorthand English Higher Grades with a service of not less than three years as Steno Grade III. In the case of both Typewriting and Shorthand English was prescribed against the vacancies filled in by direct recruitment and for departmental promotion, the incumbent should have not less than three years service as Steno Grade II and preference was given to graduates. Thereafter, promotion to the posts of Personal Assistant and Private Secretary to Chairman was by Selection where seniority was maintained normally. The schedule of qualification for various categories of posts filled by direct recruitment was revised in January, 1978 with the result the basic academic qualifications for recruitment to the post of Steno Grade III were revised as under :

- (i) Degree in Arts, Science or Commerce;
- (ii) Pass in Shorthand English (Higher) and
- (iii) Pass in Typewriting English (Higher)

Thus, according to the revised Manner of Appointment, the post of Steno Grade II has to be filled in by seniority subject to suitability and the post of Steno Grade I has to be filled in by Departmental promotion on selection where the qualification existed for promotion to the post of Steno Grade II i.e. pass in Typewriting and Shorthand English Higher Grade was retained for promotion to the post of Steno grade though the same qualification has been prescribed for the lowest entry post viz. Steno Grade III and even today the position remains the same. According to the Scheme of Grouped posts which was implemented w.e.f. 1-1-78, the post of Steno grade III and Steno grade II were grouped together on completion of 8 years of service, the incumbent of the post of Steno Grade III are promoted as Steno Grade II subject to observance of the provisions of the Scheme and the reservation rules in force. A contingency arose in the year 1979 and in 1981 that in some cases of recruitment of SC/ST candidates and certain departmental candidates as Steno-Grade III, it became necessary to relax the qualifications to fill up the vacancies of Steno Grade III reserved for SC/ST and also to accommodate some of the departmental candidates. The concession extended differed from candidates to candidates, viz. in some cases relaxation was given for Higher Grade Certificate in Shorthand English or Higher Grade Certificate in Typewriting English or Graduation or both Shorthand Higher and Graduation. But in all these cases employees who were recruited with relaxed/

standard the condition was imposed that they should acquire the prescribed qualifications before they are considered for promotion to the post of Steno Grade II and it was communicated to them on their joining duty. The following are the Stenographers who were recruited as Steno Grade III after the Manner of Appointment is revised with a lesser qualifications than that of Decree or Typewriting English (Higher) or Shorthand English (Higher):

- |                                |   |
|--------------------------------|---|
| (1) Smt. G. Malliga (SC)       | } Qualification relaxed<br>Shorthand English<br>Higher and Decree |
| (2) Smt. S.P. Rajalakshmi (SC) |   |
| (3) Shri S. Sundararajan (SC)  |   |
| (4) Shri L. Moorthy Rao        |   |
| 5. Sri R. Md. Akbar            |   |
| (6) Smt. R. Venkateswari (SC)  |   |
| (7) Shri K. S. Govindarajan    |   |
| (8) Shri B. Chengaivarayan     |   |
| (9) Shri V. Divakaran (ST)     |   |

In 1981, 1984 and 1985 three panels were drawn under the provisions of the Regulation (9) of Madras Port Trust Employees (Appointment, Promotion etc.) Regulations to effect promotion to the then incumbent in the category of Steno Grade III who had completed 8 years of qualifying service for promotion to the post of Steno Grade II as per the Scheme of grouped posts. The particulars of the panel drawn are given below:

#### Panel for the Recruitment Year 1981

Sl. No.	Name	Designation	Community SC/ST/OC	Date from which he/she is eligible for promotion
1.	Shri S. Ganesh Rao,	Steno Gr. III	O.C.	23-4-81
2.	Shri K. Neelakantan	Steno Gr. III	O.C.	12-5-81
3.	Smt. G. Malliga	-do-	S.C.	As and when they acquire the required qualification
4.	Smt. P. Rajalakshmi	-do-	S.C.	

#### Panel for the Recruitment Year 1984

Sl. No.	Name	Designation	Community	Date from which he/she is eligible for promotion
5.	Shri D. Munirathinam	Steno Gr. III	O.C.	27-7-84
6.	Shri D. Balachandran	-do-	O.C.	27-7-84
7.	Shri V. Divakaran	-do-	S.T.	As and when he acquire the required qualification

#### Panel for the Recruitment Year 1985

Sl. No.	Name	Designation	Community	Date from which he/she is eligible for promotion
8.	Shri Md. Iqbal Ahamed	Steno Gr. III	O.C.	2-9-85
9.	Shri S. Joseph Michael Vincent	-do-	O.C.	10-10-85
10.	Smt. P. Meenakshi	-do-	O.C.	19-1-86
11.	Shri S. Sundararajan	-do-	S.C.	As and when he acquires the required qualification

Even though the Stenographers belonging to the SC/ST Community indicated against serial Nos. 3, 4, 7 and 11 had not completed the qualifying service of 8 years for promotion as Steno Grade II, they were included in the panels referred to above in order to comply with the reservation rules in force on the condition that the promotion would be given effect to them only after they acquire the required qualifications prescribed for their appointment as Steno Grade III. As far as the employees included against Serial Nos. 1, 2, 5, 6, 8, 9 and 10 included in the panels are concerned, they were appointed as Steno Gr. III under the pre-revised Manner of Appointment which was in force upto 31-12-77 and hence having completed the qualifying service of 8 years they were promoted as Steno Grade II. In view of the fact that the Stenographers belonging to SC/ST Community referred to above and not acquired the prescribed Educational and Technical qualifications before the expiry of the validity of the panel they were not promoted as Steno Grade II. The contention of the petitioner that they should have been promoted earlier as Steno Grade II even though they have not acquired the prescribed qualifications which were relaxed for their initial appointment as Stenographers Grade III without insisting the qualifying service of 8 years under the scheme of Grouped post is untenable. The relaxation of such qualifying service for Scheduled Caste and Scheduled Tribe employees will arise only when the employees in the feeder posts are otherwise considered fit for promotion except the qualifying service and to be accommodated against the communal roster points. There is no provision in the Scheme of Grouped posts to promote unqualified employees who are not fit and found suitable for promotion. In the cases under reference,

SC/ST employees in question were subsequently promoted as Stenographers Gr. II in the year 1987 after they completed 8 years of service as Stenographer Gr. III on one time relaxation taking into account the experience they gained under the Scheme of grouped posts, even though they could not acquire the qualifications. As such there is no question of violation of provision of settlement reached with the said union with regard to the implementation of the Scheme of grouped posts. Further as pointed out in the previous paras the Stenographers in questions on their appointment they were specifically informed that they should acquire the prescribed qualifications which was relaxed for their initial appointment for considering them for higher promotion in the cadre. The relaxation allowed in the year 1987 for giving promotion to all the unqualified stenographers from Gr. III to Gr. II was only on one time basis and the relaxation cannot apply suo-moto in the case of other stenographers who have not acquired qualifications for affecting promotions as Steno Grade II under the Scheme of Grouped posts even though they complete the qualifying service of 8 years. There are 11 employees who were entertained in Trust's service as Stenographers prior to 1978, i.e. before the revision of Manner of Appointment who have not been considered for promotion to the post of Stenographers Grade I for not having acquired Shorthand English Hr. Grade. These employees are also representing that they should be promoted to the post of Steno Gr. I relaxing the requirement of possession of Shorthand English Higher or Typewriting English Higher as the case may be. Even though they have put in more than 20—25 years of service in the Stenographer Grade in view of the fact that Madras Port Trust Employees union which has raised the denial of promotion for SC/ST Stenographers for want of qualifications as an industrial dispute has been opposing any relaxation in qualifications for promotion in respect of pre-1978 recruits. Hence the dispute raised by the said union for adjudication in the Industrial Tribunal is a shift in their original stand not to consider the qualified persons for promotion to the post of Steno Gr. I relaxing to prescribed qualifications. The respondent prays to dismiss the claim.

4. On behalf of the petitioner, the management has examined as WW1 and Ex. W1 to W7 have been marked. On behalf of the respondent management Thiru Santhanakrishnan, Asst. Secretary of the Madras Port Trust has been examined as MW1 and Ex. M1 to M9 have been marked.

5. The Point for consideration is "whether the action of the management of Madras Port Trust in denying the time-scale promotions to those SC/ST Stenographers who could not acquire the revised educational qualifications though their

educational qualifications were relaxed at the time of recruitment is justified? If not, what relief are the workmen entitled to".

The Point :

6. The petitioner has contended that there is discrimination in the respondent management in the promotion of SC/ST candidates who were working as Stenographer Gr. III on the ground that they have not acquired the requisital qualifications even though the candidates belonging to Forward Communities have been promoted to Stenographer Gr. II who also had not acquired the requisite qualifications. The only contention of the respondent management is that prior to 1-1-78 the requisite qualification for the Stenographer post is Shorthand English and Typewriting English (Both Lower). After 1-1-1978, the qualification for direct recruitment of Stenographer Gr. II was revised with the result, the basic Academic qualification for recruitment the post of Stenographer Gr. III was as Degree in Arts, Science or Commerce, possess Shorthand and Typewriting English both Higher Grade. According to the respondent management, those candidates who were appointed prior 1-1-1978 were not required to acquire the higher qualifications at the later stage and thus they were promoted. On the other hand, according to the respondent management for candidates who were recruited after 1-1-1978 the basic academic qualification was relaxed in the case of SC/ST candidates at the time of initial appointment and since they did not acquire the requisite qualification later they were not considered for the promotion as Stenographer Gr. II.

7. The post of Stenographer Gr. II and III belong to the same group, that the category of posts coming 'Under the Scheme of Grouped posts' as seen from the Ex. W1 Annexure to the Memorandum of Settlement, Ex. W2 is the Appointment Order to Kumari G. Malliga as Stenographer Gr. III. The promotion panel for the years 1981, 1984 and 1985 is the Ex. W3. The confirmation of Nine Stenographers in Gr. III posts on 14-5-83 is the Ex. W4. The panel for the posts of Stenographer Gr. II by promoting Stenographer Gr. III consisting of nine names on 21-12-87 is Ex. W5. The notice regarding panel for the posts of Stenographer Gr. II for the year 1981 is Ex. M3. Similar notice for automatic promotion to Stenographer Gr. II in the year 1984 is Ex. M4. Similar notice intimating panel for the posts of Stenographer for the year 1985 is Ex. M5, similar Panel for the year 1987 is Ex. M6. The order promoting Smt. G. Malliga to the post of Stenographer Gr. II is Ex. M7. The statement showing the particulars of Approved Probationers in the Category of Stenographer Gr. II is Ex. M9. A perusal of Ex. W3 promotion panel for the post of Stenographer Gr. II would show the following details. In the panel for 1981 Thiru S. Ganesh Rao and K. Neelakandan who belong to OC have been promoted whereas G. Malliga and S. P. Rajalakshmi who belong to SC have not been promoted. When compared to Ganesh Rao, Smt. Malliga has acquired Higher Shorthand and Typewriting English and passed P.U.C. similarly S. P. Rajalakshmi has got more professional qualification as a Higher Grade in Shorthand and Typewriting though she passed only S.S.L.C. But K. Neelakandan though he is a B.A. Graduate, he has got only Shorthand Lower Grade and Typewriting Higher Grade as far as the professional qualification is concerned. Both G. Malliga and Smt. Rajalakshmi are more qualified than Mr. Ganesh Rao and Neelakandan who have been promoted whereas Smt. Malliga and Smt. Rajalakshmi who belong to SC/ST have not been promoted. Similarly, in the panel for 1984 Thiru Munirathinam and Balachandran who belong to OC have been promoted whereas Mr. Divakaran who belongs to ST has not been promoted even though, the professional qualification of all the three persons are the same, that is, Lower Grade in Shorthand and Higher Grade in Typewriting. Similarly, for the promotion panel for the year 1985 out of four candidates Thiru Iqbal Ahmed, Mr. Joseph Michael, Vincent, and Smt. P. Meenakshi who belong to OC community have been promoted whereas Sundarajan was not promoted even though, the academic and professional qualifications of all the four candidates are the same. In all the three promotion panel of the years from 1981, 1984 and 1985 even when both OC & SC/ST candidates were in possession of the same qualification in the respective years, the OC candidates have been promoted by relaxing the prescribed qualification on the ground that they entered in the service before 1-1-78 from Sl. No. 15 Smt. Malliga to denied promotion on the ground that they have not acquired

the requisite qualification which was amended for candidates who joined the service after 1-1-78. Ex. M9 is the statement showing the particulars of Approved Probationers in the category of Stenographer Gr. II Ex. M9 Serial No. 1 to 14 joined the service before 1-1-78 from Sl. No. 15 Smt. Malliga to Sl. No. 22 were appointed as per the revised Manner of Appointment. MW1 Thiru Santhanakrishnan, Asst. Secretary of the respondent management has categorically admitted that Sl. No. 18 Sri Md. Akbar, Sl. No. 19 R. Venkateswari, Sl. No. 20 N. S. Govindarajan, who have not acquired the qualifications required for promotion to Gr. II have been in fact promoted. Under Ex. W1 Memorandum of Settlement u/s 18(1) of the I.D. Act dated 24-3-78 in Clause-6 of the Settlement, certain concessions have been given in promotion for SC/ST employees which reads as follows :

"The Orders of the Government relating to reservation in promotion for Scheduled Caste and Scheduled Tribe employees will continue to be applicable in the case of promotions under this Scheme also. In a contingency, such as, when five employees listed consecutively qualify for promotion under this SC some during the concerned Calendar year, but the next five roster points for promotion include one reserved for a Scheduled Caste employee, but none among these five belongs to the Scheduled Caste, then an employee belonging to the Scheduled Caste even though he has not completed the period of service specified in the Annexure for the concerned group entitling him to automatic promotion, would also be listed as eligible to be promoted, if he satisfies the conditions prescribed for promotion in the 'Manner of Appointment' for the concerned post, and his work and conduct are satisfactory. The same procedure will apply to Scheduled Tribe candidates."

In the case of Stenographer Gr. II automatic promotion will be given on completion of 10 years and in the case of pre-1-1-78 entrants after completion of 8 years service. In the Profile on General Information, Madras Port Trust the Committee on Subordinate Legislation, Rajya Sabha has held as follows : The relaxation and concessions extended by the Trust to the candidates who belong to the SC/ST are furnished below :

"Under the 'Scheme of Skilled Categories' and 'Scheme of Grouped posts' where other community employees are required to put in a service of 8 years or 6 years or 5 years as the case may be to qualify themselves for promotion to a higher category, this qualifying service is relaxed in respect of Scheduled Caste/Scheduled Tribe employees and they are being considered for promotion if they are approved probationers (2) years' service".

But in the case of SC/ST candidates even though they are approved probationers and confirmed in service and have been working for several years they were not promoted on the only ground that they entered service after 1-1-78 and the requisite qualification was relaxed at the time of entering in service but failed to acquire revised qualification in the Manner of Appointment. On the other hand, candidates belonging to OC have been promoted even though they were lesser or similar qualified like the SC/ST candidates on the only ground that they were recruited before 1-1-78 under the old requisite qualifications.

7. Looked from two other angles, i.e. relaxation of qualification for SC/ST candidates and also relaxation of qualification at the time of entering into service is available to the employee when he is later on promoted to the Superior posts the contention of the petitioners is sustainable, in view of the Judgement of the Hon'ble Madras High Court.

8. The Judgement of Division Bench of the Hon'ble Madras High Court in W.A. No. 211 of 1986 dated 26-4-1989 is direct answer to this point :

"The Point involved in this appeal is covered by the decision in W.A. No. 106/79 (State of Tamil Nadu by Secretary C.T. and Religious Department, Madras and another Vs M. N. Raghunathan). Yet what is contended by the Government Pleader is that, Pass in S.S.L.C. being one of the essential qualification for the superior post, it being exempted

for the lower category of posts to which the respondent had been appointed; it will not be available to him when he gets promotion. For both the entry post and the promotional post, it being a common qualification; once it is exempted at the time of entry into service; it has been repeatedly held that it is available to the employee when he is later on promoted to superior post. No decision contra to what had been held in W.A. 106/1979 having been pleased, this appeal is dismissed."

The Government of Tamil Nadu, based on the above judgement of the Divisional Bench of Hon'ble High Court has also issued G.O. Ms, 221 P & AR Department, dated 10-5-1990 which reads as follows :

"The point as to whether relaxation of qualification/test made in the initial stage of appointment/promotion of Government servants need be resorted to at every stage of promotion to higher posts, has been examined by the Government in detail. In certain cases rules prescribing the possession of Minimum General Educational Qualification or a pass in a departmental/Special Test as a pre-requisite condition, are relaxed in favour of Government servants for purpose of regularising their services/declaration of their probation. When the turn comes for their promotion, the person for whom such rules were relaxed, stake their claim for promotion even though they are not in possession of the qualification specifically prescribed for the said higher post. In practice, they are not considered for promotion, as the relaxation granted is intended for the lower post only;

2. However, the High Court has observed in W.A. No. 106/79 that when the exemption was granted, the authorities had taken into consideration his experience, capacity and then only such exemption was granted on merits and which exemption must be deemed to have exempted the respondents from passing the relevant test for the post which required such pre-requisite qualification. In another W.A. 211/86 the High Court has also observed that for both the entry post and the promotional post, it being a common qualification (Minimum General Educational Qualification) once it is exempted at the time of entry into service, it has been repeatedly held that it is available to the employee, when he is later on promoted to superior post".
3. The Government therefore direct that the principle laid down in the above judgements be followed and it should be considered that once the relaxation is given exempting a person from possessing qualifications/passing departmental/special test and other obligatory tests prescribed for the post, it should be held valid for all future promotions, where the same qualification is prescribed. The above decision should be borne in mind while dealing with any case of relaxation of qualification rule entry to post in any service. Relaxation of qualification rules should as far as possible, be avoided, especially in cases where the qualification is considered absolutely necessary for manning the higher posts in the same service."

From the Judgement of the Division Bench of the Hon'ble High Court, Madras and G.O. issued by the Tamil Nadu Government, it is clear that when once the requisite qualification is relaxed at the time of entering in service the same would be valid for the future promotion also. Though the respondent management is the Central Government undertaking and though the G.O. of the Tamil Nadu Government referred above cannot bind the respondent management still the principle laid down in the Judgement of Division Bench of the High Court, Madras is applicable in the instant case.

7. In the result, Award passed holding that the action of the respondent management of the Madras Port Trust denying the time scale Promotion to the SC/ST Stenographers who could/did not acquire the revised educational qualifications which was relaxed at the time of recruitment is not justified and the workmen are entitled to promotion in the respective

years in which their names were empanelled. The concerned workmen will be eligible for promotion from the year in which their names were empanelled and also for monetary benefits and also seniority. Award passed. No costs.

Dated, this the 28th day of July, 1999.

S. ASHOK KUMAR, Industrial Tribunal.

#### WITNESSES EXAMINED

For Workmen : WW1 : Thiru S. Sundrarajan.

For Management : MW1 : Thiru A. S. Santhanakrishnan.

#### DOCUMENTS MARKED

For Workmen

Ex. W1 24-3-78 : Memorandum of Settlement u/s 18(1) of the I.D. Act, 1947 (xerox copy).

Ex. W2 17-7-79 : Appointment Order of Smt. G. Malliga, Steno-Gr.III No. G.1/XX/12898/78/S.

Ex. W3 : Panel of Stenos for the years 1981, 1984 & 1985.

Ex. W4 19-5-83 : Declaration of Probation and confirmation of Stenos Gr. III.

Ex. W5 21-12-87 : Panel of Stenos for the year 1987 No. G.1/XVI/19538/87/S.

Ex. W6 11-7-94 : Profile on General information Committee on Subordinate Legislation Rajya Sabha.

Ex. W7 21-6-95 : Conciliation Failure report.

For Management

Ex. M1 17-2-81 Letter by Management (xerox copy).

Ex. M2 4-4-81 Letter by Management (xerox copy).

Ex. M3 28-10-81 Panel List

Ex. M4 30-7-84 Panel List

Ex. M5 14-9-85 Panel List

Ex. M6 21-12-87 Penal List

Ex. M7 8-2-88 Promotion order (,)

Ex. M8 5-7-93 Union letter to the Chairman (Xerox copy)

Ex. M9 — Steno list (Xerox copy)

नई दिल्ली, 4 अक्टूबर, 1999

का.आ. 3158—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल रैनफेड अपलैंड राईस रिसर्च स्टेशन, हजारीबाग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-10-99 को प्राप्त हुआ था ।

[सं. एल-42011/11/89-आई.आर. (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 4th October, 1999

S.O. 3158.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Rainfed Upland Rice Research Station, Hazaribagh and their workman, which was received by the Central Government on the 4th October, 99.

[No. L-42011/11/89-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

#### PRESENT

Shri B. B. Chatterjee,

Presiding Officer

In the matter of an Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 15 OF 1990

#### PARTIES :

Employers in relation to the management of Central Rainfed Upland Rice Research Station, Masipidi, Hazaribagh and their workmen.

#### APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Advocate.

On behalf of the employers : Shri H. Nath, Advocate.

State : Bihar.

Industry : Rice Research Institute.

Dated, Dhanbad, the 12th July, 1999

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 had referred the following dispute to this Tribunal for adjudication vide their Order No. L-42011/11/89-I.R. (D.U.) dated, the 25th July, 1990.

#### SCHEDULE

"Whether the action of the management of Central Rainfed Upland Rice Research Station, Masipidi, Hazaribagh in not regularising Smt. Panawa Devi, W/o Deo Narayan Ram and 80 others workmen as mentioned in Annexure-I and also not making payment of proper wages and other benefits to them is justified? If not, to what relief the workmen concerned are entitled?"

2. The concerned workmen Panawa Devi and 80 others have made out a case in their W.S. which may be stated as follows :—

In the W.S. through their union it is the claim that the concerned workmen are the permanent labourers and they were in service against permanent nature of vacancies who were stopped from working so that none of them could complete total working of 240 Nos. purposely to avoid legal obligations of absorbing them in their respective posts permanently. Those workmen were there from 6th June, 1986 to 1988 and when they were stopped from working the matter was reported to the ALC(C) Hazaribagh who on such complaint seized all the records of the management concerning the workmen of this reference. The sponsoring union has also made out a case in the W.S. that the concerned workmen were employed by the management but always not in their own names but by describing them in different names and that too with a view to avoid legal complicity or obligation although the concerned workmen performed their duties continuously by performing permanent nature of work which would be evident from relevant records like wagesheets and registers of the labourers etc. The management for the purpose of regularising the services of the concerned workmen for performing their duties continuously against permanent nature of job by performing the duties of labourer, chowkidar, driver, helper cultivator etc. they were not allowed other benefits available to the permanent workers like Bonus, P.F. etc. and thus they were deprived of the benefits of the rules of "Equal pay for equal work". Further case of the workmen is that they performed the duties of research institute throughout the year by remaining engaged in various types of duties and they were never seasonal workers or the duties which they performed was not at all seasonal rather continuous and as such the concerned workmen are entitled to be

treated as permanent employee but the Research institute for the purpose of depriving the concerned workman instead of regularising the concerned workmen as permanent employees of the Institute started absorbing others and by introducing change in the names of the workmen which was in fact brought to the notice of the ALC(C) Hazaribagh when the old employees were removed and new workers were engaged. Since the concerned workmen performed their duties in the institute continuously by remaining engaged in the permanent nature of job they are entitled to the benefits of the permanent employees of the institute with other consequential benefits.

3. On the basis of the complaint a conciliation proceeding was started but the attempt for such conciliation having ended in failure and a report to that effect having been submitted to the Central Govt. in the Ministry of Labour, the matter has been referred to this Tribunal for adjudication as far back as in the year 1990 giving rise to the Reference Case No. 15/90.

4. The management side also filed their W.S. wherein they have challenged the maintainability of the present reference on the ground that the Central Rice Research Institute under the Administrative control of the Council of Agricultural Research being an Institution is not an "Industry" and the dispute raised is not an Industrial Dispute and the Hazaribagh branch of the Institute being an autonomous body registered under the Societies Act is guided under I.C.A.R. Rules. In addition the management has claimed that the demand of the concerned workmen to the effect that they have been working since 1980 is a myth and based on imagination. In fact they were employed as labourers for a certain period for specific job and the number of working days was never more than 200 days in a year. The management has denied the claim of the concerned workmen that the research work in the institute is carried by employing the concerned workmen throughout the year. In fact the concerned workmen were engaged for the purpose of cultivation etc. which in fact continue for a period of 6 months of a particular year right from the time of showing till the time of harvesting as well as the construction of road, excavation of tank etc. The claim of the concerned workmen for regularising them under such circumstances cannot be entertained and the same is also not justified. The concerned workmen are therefore as per claim of the management are not entitled to any relief and an Award to that effect should be passed.

5. The workman side also filed a rejoinder as against the W.S.-cum-rejoinder submitted on the side of the management giving parawise comments and in doing so the workmen side abstained from giving any comments in respect of the contents of para 2 of the W.S. whereas in respect of para-1 the say of the workmen that the claim of the management that the concerned workmen were not serving in the institute since 1980 etc. are not at all correct. In respect of the contents of para-3 of the W.S. the claim of the workmen that the registers were mentioned there in were through seized by the LEO(C) but registers of the year 1988 are with the management along with the copies of seizure list showing seizure of any such registers by the LEO(C) mentioned in para-3 of the W.S. of the management. In fact according to the workmen the custodian of the registers in respect of the concerned workmen is the management and those cannot be expected to be available with the workmen. Since the management is not willing to collect materials i.e. bio-data of the concerned workmen relating to their days of wages, date of joining, number of days of joining etc. the management have introduced such stores in their W.S. In respect of contents of para-4 of the W.S. the say of the workmen is that the concerned workmen were not at all casual workers engaged periodically for seasonal work but in fact they used to be engaged against permanent nature of job throughout the particular year by cultivation of gram, wheat, tisi vegetable etc. although it is true that the product of the institute used to be sold to the Cultivators through Govt. Agency of Bihar. In respect of contents of para 5 of the W.S. the say of the workman is that those are not at all correct. So far the claim of the management in respect of the nature of the work in which the concerned workmen were engaged rather the management with a view to deprive the concerned workmen of the benefit like that of permanent workers of the institute the management used to issue order for utilising the services of the concerned workmen sometimes in their

own names and sometimes by the names of other for the purpose of showing number of days of work of the concerned workmen in a particular year below 200 days. In respect of the contents of para-6 of the W.S. of the management the say of the workmen is that those are not at all correct while in respect of para-7 although the worker like Chowkidar, Guard, Chaprasi of the Institute are paid Rs. 800/- to 900/- per month the services of the concerned workmen were utilised by the management on payment of Rs. 16.75 P. per day depriving them from the benefit of the permanent worker like that of guard etc. In respect of contents of para-9 of the W.S. of the management the claim of the concerned workmen is that the claim as per the statement of demand submitted for the workmen by the union are justified and as such an Award in terms of the prayer of the statement of demand of the workmen should be passed.

6. The point for decision is whether the concerned workmen Smt. Panawa Devi and 80 others as mentioned in the annexure are entitled to an order for regularisation and direction for making payment proper wages and other benefits.

#### DECISIONS AND REASONS

7. Before I enter into the discussion as to the merit of the dispute referred to this Tribunal for decision it may be mentioned here that previously the reference was disposed of by my predecessor-in-office Shri D. K. Nayak by an Award dated 26-6-1995 directing constitution of a committee by the management with the representative of the union of the workmen for the purpose of ascertaining the particular of the workmen serving in the institution with full bio-data such as name and description of the workmen, date of their appointment, rate of wages paid number of days they worked etc. The Award so passed by my predecessor-in-office was challenged before the Hon'ble High Court of Ranchi Bench by filing a Writ Petition and the Hon'ble High Court was pleased to set aside the Award and remand back the dispute for adjudication in the light of the observation of Hon'ble High Court. Hon'ble High Court was pleased to set aside the implementing portions of the Award by my predecessor with further direction for constitution of a fresh committee wherein the workmen's union should be properly represented for submission of a report which must contain individual's case of each and every 81 workmen of this reference as mentioned in the annexure including their antecedents such date of employment, period of employment working days, present wages, wages to be received as per circular of the year 1988 of the prime organisation to be submitted within a time frame before this Tribunal and thereafter this Tribunal has been entrusted with the duty to consider that report and after hearing both the parties on that report pass a final order asked for in the reference. The Hon'ble Court was also pleased to direct that the finality of the Award should be reached within a period of 6 months from the date of the receipt of the order of the Hon'ble High Court.

8. Careful perusal of the judgement passed by the Hon'ble High Court shows that the other finding of my predecessor-in-office in respect of service of the concerned workmen under the institution in question at Hazaribagh on daily wage basis for a long period as well as the finding of non-payment of proper wages etc. have not been disturbed and the Hon'ble Court was pleased only to set aside the implementing portion of that Award passed by my predecessor-in-office. It was also the direction of the Hon'ble High Court that for the purpose of reaching the final decision and thereby to bring the finality of the Award this Tribunal was directed to confine itself only to the report which was directed to be submitted by the Hon'ble Court to the committee required to be constituted afresh with proper representation of the workmen side. That report, has however not reached this Tribunal till the date when the reference was fixed for hearing argument. Learned Advocate on the side of the management in his written argument has introduced so many facts which deprive the committee for submitting such report which as per direction of the Hon'ble High Court to this Tribunal is required to consider. One of such around mentioned in the written argument on the side of the management is that all registers of the institution relating to the concerned workmen for several years, i.e. from 1982 to 1986 were seized by the then LLC(C) Hazaribagh on 6th June, 1980 and that inspite of



sincere efforts to trace out those registers containing full particulars of the concerned workmen showing the number of their work then date of joining, rate of wages at which they were paid for the period from 1982 to 1986 and 1988 for the purpose of inspection by the committee constituted with proper representation of the workmen side with a view to inspect those registers and prepare a report as directed by the Hon'ble High Court for the purpose of submitting the same before this Tribunal. The story of seizure has no doubt been introduced in the written argument but careful perusal of the written statement-cum-rejoinder filed on the side of the management in the reference it has no where been mentioned that in fact those registers in respect of the concerned workmen were seized by the LEO(C) rather in para-3 of the W.S. it has been categorically stated that the LEO(C) Hazaribagh for the purpose of inspection took away those registers but thereafter since 1988 those registers have not been returned to the institution despite several reminders. Thus there is no similitude in respect of the claim of the management in their written argument and the case made out by the management in para-3 of their W.S. Assuming for argument sake that in fact the LEO(C), Hazaribagh actually took away registers of attendance, wages etc. of the concerned workmen in the year 1988 by way of seizure or otherwise in that case also if there was seizure of those registers by the LEO(C) Hazaribagh it was his boundant duty to supply copy of seizure list to the management and if there was no such seizure and the registers were simply taken away by the LEO(C) Hazaribagh he must have prepared some papers in respect of taking away of those registers of the institution with him for the purpose of inspection. The management side in the written argument has tried to justify their failure to prepare and submit report

as the registers were not traceable in the office of the LEO(C) but abstained from producing any paper or taking away those registers by way of seizure or otherwise by the then LEO(C) is thus clear that the direction issued by the Hon'ble High Court though partly complied with by constitution of a committee with proper representation of the workmen side but that direction of Hon'ble High Court has not been fully complied with and in that view of the matter since this Tribunal is to arrive at a decision and thereby to render an Award by finally adjudicating the dispute between the parties there is no way out but to draw an adverse inference against the management for their failure to produce all registers before the committee for the purpose of inspection and submission of report. Since it is an admitted position that the concerned workmen served in the institution although according to the management not against permanent nature of job throughout the year I cannot but hold that all the concerned workmen of this reference are entitled to an order for their regularisation without dragging the reference any more for the purpose of submitting report etc. as directed by the Hon'ble High Court. I therefore direct the management to regularise the services of all the concerned workmen and to pay them the arrears of wages from 1980 to till date as admissible to Chowkidar, Peon and other workers of that category within a period of 3 months from the date of publication of the Award in the Gazette of India.

This is my Award.

B. B. CHATTERJEE, Presiding Officer

कामगारों का नाम	उम्र	काम
1	2	3
1. पनवा देवी पति देवनारायण राम	25	मजदूर
2. मेघनारायण प्रसाद पिता छेदी दया	26	चौकीदार/गार्ड
3. हरिप्रचन्द्र उराँव पिता बहादुर उराँव	21	"
4. मो० रियाज पिता मो० हकी	25	ट्रेक्टर ड्रैलर चौकीदार
5. रामेश्वर राम पिता किमुन राम	26	माली
6. छोटेलाल पिता बसंत	23	चौकीदार/गार्ड
7. करमी देवी पति जानकी राम	32	मजदूर
8. धनवा देवी पति भैरो राम	28	मजदूर
9. सीतवा देवी पति महादेव राम	36	"
10. गोपाल गोप पिता कुनु गोप	24	चौकीदार/गार्ड
11. जीतन राम पिता लालजी राम	24	"
12. मंगरा उराँव पिता बहादुर उराँव	25	"
13. भुनेश्वर उराँव पिता गुना उराँव	23	"
14. तीरथ राम पिता पुनीत राम	26	"
15. सरस्वतिया देवी पति युगल रविदाम	40	मजदूर
16. जसवा देवी पति रामेश्वर राम	29	"
17. निलाधर महतों पिता दहल महतों	27	"
18. सुमित्रा देवी पति नागेश्वर राम	30	"
19. बालेश्वर राम पिता रामवनी राम	22	"
20. जावा पिता तिरथ राम	26	"
21. मालती देवी पति मेघन राम	23	"
22. गुलाबी देवी पति चुरामन राम	26	"
23. रूपन देवी पिता परमेश्वर	22	"



1	2	3
24. पुनिया पिता पप्पू राम	28	मजदूर
25. नगीया देवी पिता गोपाल राम	29	"
26. सागे देवी पिता नन्द किशोर राम	30	"
27. कुने देवी पति रामा राम	24	"
28. सुमित्रा देवी पति सरिया राम	26	"
29. जसोदा देवी पति शंकर राम	26	"
30. कुन्ति देवी पति सरयू राम	26	"
31. शान्ति देवी पति बच्चू राम	21	"
32. पनवा देवी पति जयनारायण राम	40	"
33. सीतवा देवी पति कारू राम	25	"
34. सौनी देवी पिता मुकुल राम	22	"
35. घुरामती देवी पति शनिचर राम	21	"
36. पुलिया देवी पति काली राम	40	"
37. मैनसी देवी पति भुनेश्वर राम	40	"
38. सैमनी देवी पति मोती राम	23	"
39. सारो देवी पति राम लाल राम	30	"
40. मीना देवी पति अशोक राम	30	"
41. सिंगनी देवी पति स्व० भाषराम	45	"
42. रजिया देवी पति लक्ष्मण राम	40	"
43. धनवा देवी पति राम अवतार राम	35	"
44. चमेली देवी पति फतवा राम	45	"
45. बिलसी देवी पति भुनेश्वर राम	21	"
46. बिन्दया देवी पति वेपास राम	40	"
47. जिरया देवी पति घानो राम	40	"
48. सोनिया देवी पति सुयशंकर राम	35	"
49. सुसिला देवी पति रावेन्द्र राम	21	"
50. सारो देवी पति उदय राम	25	"
51. कौशल्या देवी पति करम राम	21	मजदूर
52. धनेश्वरी देवी पति बाबूलाल राम	30	"
53. सोमरी देवी पति सीता राम	30	"
54. निर्मला देवी पति विजय राम	25	"
55. नसीबन पति बसीम	30	"
56. रेशमी देवी पति छोटे लाल राम	21	"
57. कैरिया देवी पति अमृत राम	22	"
58. बमनी देवी पति तिलक राम	22	"
59. सुन्दरी देवी पति जानकी राम	35	"
60. सोरसतिया पति शंकर राम	30	"
61. पार्वतिया देवी पति वंशी राम	35	"
62. रिधवा देवी पति गेन्दा राम	26	"
63. जयनारायण राम पिता महादेव राम	22	"
64. जसवा देवी पिता छोटी राम	23	"
65. केवार नाथ पंडित पिता गणेश पंडित	21	"
66. सुमु गोप पिता बिहारी गोप	26	चौकीदार/गार्ड
67. मधरू राम पिता जयसाय राम	23	मजदूर
68. शनिचर राम पिता बिदेशी राम	21	"
69. शंकर राम पिता सीतन राम	22	"
70. बंशी राम पिता मुन्ना राम	28	"

1	2	3
71. मुकुल राम पिता किशुत राम	24	मजदूर
72. बासदेव राम पिता रामधनी	26	"
73. इंदर राम पिता सुकन राम	24	"
74. रूकुन्दी देवी पिता मुरारी राम	30	"
75. धुरामल राम पिता सुधन राम	30	"
76. पुमिति देवी पति शनिचर राम	30	"
77. तारो कुमारी पुत्री जयनारायण राम	20	"
78. मुन्नुआ देवी पुत्री हरि राम	20	"
79. हरिया राम		
80. मुनिया देवी पति महेन्द्र राम	28	"
81. मासिरिया देवी पति मेघनाथ राम	26	"

नई दिल्ली, 5 अक्टूबर, 1999

का०आ० 3159.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रीजनल प्रोविडेंट फंड कमीशनर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-99 को प्राप्त हुआ था।

[सं० एल-42012/157/90-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 5th October, 1999

S.O. 3159.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Regional Provident Fund Commissioner and their workman, which was received by the Central Government on 5-10-99.

[No. L-42012/157/90-IR(DU)]  
KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 27-9-1999

PRESENT :

JUSTICE R. RAMAKRISHNA,

Presiding Officer.

C.R. No. 31/91

I PARTY :

V. Annappayya Holla

Since Deceased,

Represented by his legal heirs :

1. Smt. Narayani

2. Master Anautha

3. Master Prathviraj

Residing at  
C/o. P. N. Suresh,  
Palaneer House,  
Meenakalya Post,  
Panambur-575010

II PARTY :

The Regional Provident Fund Commissioner,  
Balmatta,  
Mangalore.

#### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-42012/157/90-IR(DU) dated 3-6-91 on the following schedule :—

#### SCHEDULE

"Whether the management of Regional Provident Fund Commissioner, Mangalore is justified in terminating the services of Shri V. Annappayya Holla w.e.f. 10-6-88? If not, what relief the workman concerned is entitled to?"

2. In the claim statement filed, the deceased Annappayya Holla on 22-8-91, he has contended that he was appointed as a Manager of Bhavishya Nidhi Departmental Canteen attached to the office of second party vide order dated 13-7-1987 issued by the Chairman Bhavishya Nidhi Departmental Canteen and Regional Provident Fund Commissioner, Balmatta, Mangalore. He was being paid around Rs. 1200 as salary per month. His work was mainly the clerical. His services were abruptly terminated vide order dated 12-5-1988 without assigning any reason. He has put up more than 240 days of service and therefore, he was entitled for protection of the Industrial Disputes Act. He has rendered unblemished service and there are no justification for termination.

His request to reconsider the order and reinstatement was not accepted by the second party. Therefore he prayed for reinstatement and other consequential benefits.

3. The second party in their objection statement have questioned the maintainability of this dispute. According to them the first party is not a workman as defined in the ID Act and so this tribunal has no jurisdiction.

4. They have not denied the fact that he was appointed as a Temporary Manager on probation under an order dated 13-7-87. It is contended, the duty of the first party was to manage the affairs of the Canteen and to control his subordinates and it is not a clerical work as contended. They have denied that abruptly the service was terminated without complying the provisions of law. His services are terminated as per agreement after notice dated 12-5-88. They have denied the protection of ID Act though the first party has put in more than 240 days if it is established.

5. It is further contended the first party was appointed on purely temporary basis on probation in managerial cadre as shown in clause VI and VIII of the memorandum dated 13-7-87. It is lastly contended that they have found that the Canteen could not afford the service of full time manager due to financial commitment on account of his pay, the managing committee of the canteen in its meeting held on 6-5-88 decided to dispense with the service of the Manager. Therefore, they prayed for rejection of the dispute.

6. Initially this tribunal has refused to give a finding on the preliminary objection on the basis of Maheswari's case. But subsequently one of the Presiding Officer has framed two additional issues which are as follows :—

- (1) Whether the first party is a workman under the ID Act ?
- (2) Whether the first party is entitled to get the release as prayed for ?

7. The first party was examined on 24-1-97. In his oral evidence he has reiterated the averments made in his claim statement and with regard his nature of work he has denied for having conferred the managerial power. To justify this he has spoken about his visit to shops to purchase the goods and Sundry works. A detailed cross examination was made to him to disprove the contention of the first party by suggesting that there were three workers working under him and he had the managerial functions over them.

8. Against this evidence the evidence of the second party is that the first party was the manager of the Canteen as described in Ex. M1, the order of appointment. His duty as manager was to supervise the subordinates and manage the affairs of the Canteen. His appointment was on temporary basis. At present the managing committee is looking after the affairs. His service are terminated as per the notice Ex. M3. The decision was taken by the Managing Committee. Ex. M4 is the order of termination which was in accordance with the conditions of service.

3078 GI/99—20.

9. A lengthy cross examination was made but according to me many of the answers elicited are extraneous to the points under dispute.

10. It is admitted of no doubt that the deceased first party was appointed under Ex. M1 dated 13-7-87. His appointment was made by the Selection Committee of the Canteen. Under clause VI the post was purely temporary but is likely to be continued. Under Clause VIII, the appointment may be terminated at any time by a month's notice given by either side without assigning any reasons. The appointment authority reserves the right of terminating the services of the appointee forthwith or before the expiration of the stipulated period of notice by making payment to him a sum equivalent to the pay and allowances for the period of notice of the unexpired portion thereof. Under clause II, the probation period was fixed for 2 years, with a right to extend by the appointing authority. Failure to complete the period satisfactorily he may be dismissed from the service or reversion to lower cadre.

11. On the basis of the above, the learned advocate for the second party has contended that a notice of termination of service under Ex. M7 dated 12-5-88 was served clearly indicating that his services will be terminated after the expiry of one month which is as per condition No. VIII. There seems to be no representation made by the first party of this notice.

12. However, the learned advocate for the second party has relied on Ex. W4 and Ex. W5, the office memorandums issued by the Govt. of India, Ministry of Finance. In Ex. W4 a reference is made to the judgement of the Supreme Court as it regards to the provision for pay and allowances of the Canteen employees chargeable on the expenditure under major head of account. It also enumerated the financial arrangements the Central Government shall meet 70 per cent of salary bills and the balance 30 per cent is to be met by the Canteen themselves from their own resources.

13. Under Ex. W5 dated 23-1-92 the direction of the Hon'ble Supreme Court in the judgement C.K. Jha and others V/s P.N. Sharma and others considered as it regards to the benefits to be extended to this category of workman and they are also treated as Government servants by virtue of Supreme Court order w.e.f. 1-10-91.

14. The learned advocate for the second party has submitted that the management exercise their right under clause VIII before the probation period was expired. He has also submitted the management was subscribing 90 per cent and the Canteen has to meet 10 per cent towards wages of the employees. Since the financial condition was not favourable they have invoked clause VIII and dismissed this workman after giving a month's notice without assigning any reason.

15. As it regards to the contention that the first party was not a workman, the evidence is most inadequate and therefore, a mere nomenclature is found not sufficient to treat him as a manager, this issue is answered accordingly. The next contention of the learned advocate that for the second party there is no master and servant relationship between the Regional

Provident Fund Commissioner and the first party in view of the fact that the nature of Canteen was welfare measure extended to the staff of this office which was being run by a selected members of the committee. In support of this contention the learned advocate relied on a reported judgement in employers, Management of Reserve Bank of India V/s. Workman reported in (1996) 3 SCC 267. In this decision their Lordships of the Supreme Court have distinguished HMR Khan's case and held there was no direct control of the management over the members of the Canteen staff. There was no direct control by the management.

16. Looking from any angle, the removal of the first party does not amount to an order of dismissal and exercising such power was within the competence of the second party under Clause VIII of the appointment order no interference can be made with the action taken by the management.

#### ORDER

This reference is rejected.

(Dictated to the PA, transcribed by her, corrected and signed by me on 27-9-99)

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 5 अक्टूबर, 1999

का०आ० 3160.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार महानगर टेलीफोन निगम लिमिटेड के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं० 2, मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-99 को प्राप्त हुआ था।

[सं० एल-40011/11/98-आईआर (डीयू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 5th October, 1999

S.O. 3160.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Mahanagar Telephone Nigam Ltd., and their workman, which was received by the Central Government on the 5-10-99.

[No. L-40011/11/98-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT  
INDUSTRIAL TRIBUNAL NO. II,  
MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

REFERENCE NO. CGIT-2/154 OF 1998

Employers in relation to the management of The General Manager (P), Mahanagar Telephone Nigam Ltd.,

Saawla Chambers,  
40, C. P. Street, Fort,  
MUMBAI-1.

AND

Their Workmen  
The Gen. Secy.  
Bombay Telephone Canteen Emp. Assn.  
C/o Prabhadevi Telephone Exchange,  
Canteen, I Floor,  
Dadar (W),  
Mumbai-28.

#### APPEARANCES :

For the Employer : No Appearance.

For the Workmen : Mr. M. B. Anchan Advocate.

Mumbai, dated 16th September, 1999

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-40011/11/98/IR (DU), dated 30-11-98, had referred to the following Industrial Dispute for adjudication.

"Whether the demand of regularisation in services of Shri Narayan M. Sanil & Shri Harish N. Poojary, Wash boys is legal and justified? If not, to what relief the workmen are entitled?"

2. The Bombay Telephone Canteen Employees Association filed a Statement of Claim at Ex-3. It is contended the two concerned workman joined the services of the departmental canteen of Maharashtra Telephone Nigam Ltd., Savla Chamber as wash boys. Sanil joined in January, 1981 and Harish Poojary joined in the January '86. Since then they are continuously working without any break. They were working against the regular vacancies. They were paid wages per month. They requested the department to regularise their services, but it was of no use.

3. The Association contended that in view of the Supreme Courts Judgment, Canteen workers became departmental workers from 1-10-91. But these two workmen were not regularised. They were not paid the wages as per the Third and Fourth Pay Commissions. The Association send representations to M.T.N.L. but it was without any use. It is averred that when the Supreme Court delivered a Judgment the canteen committee did not show their names in the list of canteen workers submitted to General Manager M.T.N.L. Bombay. As such their names were not there. It can be seen that from the letter dtd. 24-2-95 from Assistant General Manager M.T.N.L. Bombay (SR) to the Assistant General Manager, M.T.N.L. Bombay (A-III) their names were not there, therefore they are not regularised.

4. The Association pleaded that once the casual labourers worked for 120 days continuously they attain the status of temporary employee they are

entitled to benefits of as of regular employees. This benefit is also not given to them. It is prayed that under such circumstances they are entitled to regularisation and all other consequential benefits.

5. The M.T.N.L. was duly served (Exhibit-2) but they remained absent. They did not file any written statement.

6. The issues are framed at Exhibit-4. The issues and my findings thereon are as follows :—

Issues	Findings
1. Whether the demand of regularisation in service of Shri Narayan Sanel and Harish Poojary wash boy is legal and justified?	Yes.
2. If not, to what relief the workman are entitled to	As per order below.

### REASONS

7. Harish Poojary (Ex-5) affirmed that he joined the services of departmental canteen, Savla Chamber of M.T.N.L. as a wash boy in March '86. Since then he is in continuous service. He affirmed that his name was not in the list of regularisation. He made representations but it was not of use. The Manager, Departmental M.T.N.L. canteen had given certificate which is Annexure-V to his affidavit shows his working days. He is shown to be in employment from December '86 to December '97. He has also made representation on 23rd August, '96 for regularising him. But he was not regularised. From the certificate it is very clear that he has continuously worked for more than 240 days in a year. It can be further seen that in view of the Supreme Court's Order as they were working in a departmental canteen they are entitled to regularisation as the employees of M.T.N.L.

8. Narayan Sanel (Ex-6) affirms that he joined the departmental canteen of Savla Chamber of M.T.N.L. as a wash boy in January '81. Since then he is continuously working in the said post without any break in service. He also produced a certificate given by Manager, Departmental canteen Savla Chamber, 3rd Floor which shows that he is working in that canteen, since 1981 till 1997. It can be seen that he is continuously working there. He alongwith Poojary had written letter dtd. 23-8-96 to the then General Manager, M.T.N.L. for regularisation in service. But it appears that they were not regularised.

9. The M.T.N.L. even though duly served remained absent. There is no cross-examination of these witnesses. There is nothing on the record to show that the contents in the affidavit and the working days which they alleged to have worked in the canteen are untrue. It is fact that in view of the Supreme Court's Judgements these canteen employees are to be regularised from 1-10-91 as employees of the M.T.N.L. and they are entitled to get the benefit as if they are

the employees of M.T.N.L. Under such circumstances I pass the following order :—

### ORDER

The demand of regularisation in services of Narayan M. Sanel & Harish N. Poojary, wash boy is legal and justified ?

The management is directed to regularise their services from 1-10-91 and pay them all consequential benefits, deducting the benefits which are already given to them.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 1999

का०आ० 3161.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डाक विभाग के प्रबन्धन के संदर्भ नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-99 को प्राप्त हुआ था।

[सं० एल-40012/142/91-आई आर (सी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 6th October, 1999

S.O. 3161.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of D/o Post and their workman, which was received by the Central Government on 6-10-99.

[F. No. L-40012/142/91-IR(DU)]

KULDIP RAI VERMA, Desk Officer

### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BANGALORE

Dated : 1-9-1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer

C. R. No. 26/92

I PARTY :

Sri Chandra Kant  
S/o Dhulappa Halake  
Ex. EDDA/MC  
Belangi P.O. 585316  
Aland Taluq  
Gulbarga District.

II PARTY :

(1) The Sr. Superintendent  
of Post Office,  
Gulbarga Division,  
Gulbarga-585101.

(2) The Sub-divisional Inspector  
(Postal)

[सं० एल-40012/195/90-आई आर (डी यू)]

[सं० एल-40012/196/90-आई आर (डी यू)]

No. 1, Sub-Division,  
Gulbarga-585101.

कुलदीप राय वर्मा, डेस्क अधिकारी

### AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-40012/142/91-IR (DU) dated 26-2-92 on the following schedule:

### SCHEDULE

"Whether the action on the part of the Deptt. of Post, Gulbarga Division in terminating the services of Sri Chandrakant, S/o Dhulappa Halake, Ex-EDDA/MC is justified? If not, what relief the workman concerned is entitled to?"

2. This reference is received on 10-3-92. This dispute is originated from Gulbarga district of Karnataka State. The order sheet discloses that the parties have not evinced any interest in making the progress in this case. The first party was to file his claim statement has not filed so far. He appears to have written some letters that the proceedings of this dispute shall be conducted at Gulbarga.

3. The records discloses that my predecessors have conducted camp courts at Gulbarga and later at Bellary with due instructions to the first party to file the claim statement.

4. In spite of directions the first party has not filed his claim statement. Though the burden is on the second party we cannot direct the second party to file the counter statement unless a claim statement is filed. In view of these circumstances there is absolutely no ground to keep this case pending in the result I make the following order: —

### ORDER

The reference is rejected.

(Dictated to the PA, transcribed by her, corrected and signed by me on 1-9-99).

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 6 अक्टूबर, 1999

का०आ० 3162 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-99 को प्राप्त हुआ था।

[सं० एल-40012/192/90-आई आर (डी यू)]

[सं० एल-40012/193/90-आई आर (डी यू)]

[सं० एल-40012/194/90-आई आर (डी यू)]

New Delhi, the 6th October, 1999

S.O. 3162.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Deptt. of Telecom and their workman, which was received by the Central Government on the 6-10-99.

[No. L-40012/192/90-IR(DU)]

[No. L-40012/193/90-IR(DU)]

[No. L-40012/194/90-IR(DU)]

[No. L-40012/195/90-IR(DU)]

[No. L-40012/196/90-IR(DU)]

KULDIP RAI VERMA, Desk Officer

### ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated, the 24th September, 1999

PRESENT :

Justice R. Ramakrishna, Presiding Officer.

C. R. No. 54/91

### I PARTY

Shri M. E. Tuppad,  
Ex-casual Labour,  
C/o Nagamani Xerox Centre,  
Opp. District Court,  
Arab Moulla,  
RAICHUR-584 101.

### II PARTY

The Chief General Manager,  
Department of Telecommunication,  
Bangalore.

The Sub-Divisional Officer,  
Telegraphs,  
RAICHUR-584 101.

C. R. No. 55/91

Shri Basavaraj,  
S/o Thippanna,  
H. No. 1-6-173, Indiranagar,  
Station Area,  
RAICHUR-584 101.

The Sub-Divisional Officer  
(Phones),  
RAICHUR-584 101.

C. R. No. 56/91

Shri Sharanappa,  
S/o Malliah,

H. No. 1-6-174, Indiranagar,  
Station Area,  
RAICHUR-584 101.

The Sub-Divisional Officer  
(Phones),  
RAICHUR-584 101.

C. R. No. 57/91

Shri Mallikarjuna,  
S/o Hanumanthappa,  
H. No. 1-6-176, Indiranagar,  
Station Area,  
RAICHUR-584 101.

The Sub-Divisional Officer  
(Phones),  
RAICHUR-584 101.

C. R. No. 58/91

Shri Manzoor,  
S/o Sh. Amer Ali,  
C/o Sh. Mallikarjuna,  
H. No. 1-6-76, Indiranagar,  
Station Area,  
RAICHUR-584 101.

The Sub-Divisional Officer  
(Phones),  
RAICHUR-584 101.

#### COMMON AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred these disputes vide Order No. L-40012/192/90-IR(DU), L-40012/193/90-IR(DU), L-40012/194/90-IR(DU), L-40012/195/90-IR(DU) and L-40012/196/90-IR(DU) dated 11-9-91, 11-9-91, 11-9-91, 11-9-91 and 11-9-91 for adjudication on the following schedules.

#### SCHEDULE OF 54/91

"Whether the action on the part of the Department of Telecommunication, Raichur in terminating the services of Sri M. E. Tuppad, Ex-casual Mazdoor is justified? If not, what relief the workman concerned is entitled to?"

#### SCHEDULE OF 55/91

"Whether the action on the part of the Department of Telecommunication, Raichur in terminating the services of Shri Basavaraj, Ex-casual Mazdoor is justified? If not, what relief the workman concerned is entitled to?"

#### SCHEDULE OF 56/91

"Whether the action on the part of the Department of Telecommunication, Raichur in terminating the services of Sri Sharanappa, Ex-casual Mazdoor is justified? If not, what relief the workman concerned is entitled to?"

#### SCHEDULE OF 57/91

"Whether the action on the part of the Department of Telecommunication, Raichur in terminating the services of Sri Mallikarjuna, Ex-casual Mazdoor is justified? If not, what relief the workman is entitled to?"

#### SCHEDULE OF 58/91

"Whether the action on the part of the Department of Telecommunication, Raichur in terminating the services of Shri Manzoor, Ex-casual Mazdoor is justified? If not, what relief the workman is entitled to?"

2. In these disputes the II party were directed to prove that the terminating the services of Sri M. E. Tuppad, Shri Basavaraj, Shri Sharanappa, Shri Mallikarjuna, Shri Manzoor, Ex-casual Labourers.

3. A common feature in the above disputes are that I party workman questions, their termination without complying Section 25F of the Industrial Disputes Act. The II party filed a common objection Statement as it relates to their defence. In view of this the Tribunal has decided to pass a Common Award to avoid repetitions.

4. All the concerned workman in their respective Claim Statements made the averments, that they have joined the service of the II party starting from 1985 onwards on a fixed daily wages for working days and also for weekly holidays. The Nature of work was perennial in nature and they worked throughout the year. The work assigned to them was Cable Digging, Digging of Trenches, Fitting up Phones and Maintenance of Lines. Though they have worked for a considerable length of period, the II party have not extended the benefits enjoyed by a regular employee nor they have been selected as Regular workman.

5. Their other contention is that they have worked for more than 240 days in a given year and throughout their career, therefore, their termination without following the mandatory provisions contained in Section 25F is a nullity and they are entitled for reinstatement, backwages and other benefits.

6. In all these cases, the defence of the II party is common. It is contended that the II party is of service oriented, hence the Tribunal has no jurisdiction to adjudicate this dispute. They have denied the other averments made by the I party as it relates to their joining the services, nature of work and illegal termination. The II party further contended since the engagement of these workman was casual in nature they cannot claim any right. It is further contended that the Government has issued a circular after pronouncement of the Supreme Court Judgment directing the department to absorb the Casual Mazdoors who have been engaged prior to 31-3-1985. Since these workman are engaged after 1-4-85 there is no eligibility for these workmen. The II party also denied that these workman have worked more than 240 days in a year and non-following mandatory provisions under Section 25F. Their defence is that they are governed by Government Circular and therefore they are helpless in the matter.

7. Since there was no scope for framing any additional issues the parties are directed to lead their evidence on the points enumerated in the schedule. The II party was asked to justify their action as enumerated in the schedule.

8. The Management examined one of its Sub-divisional Officer as MW1. This witness has deposed that all the workman referred to above were working as Casual Labourers on daily wage basis. They have maintained Muster Rolls for these Casual Labourers. Ex. M-1 series, containing 40 Muster Rolls and Ex. M-2 is a consolidated statement showing how many days each of the workmen have worked as Casual Labourers. Except during the period shown in the Muster Roll these Casual Labourers have not worked at other time.

9. He has further stated that the Petitioner Tuppada in CR 54/91 has worked from 1986 February upto 1987 July. Therefore he has not worked continuously for 240 days in a year. He has further stated that the said Tuppada stopped coming to work from August, 1987. They have not directed him not to come to work.

10. He has further deposed that the Government has issued a circular prohibiting Casual Labourers. They have received Circular on 7-11-89. There is no termination in case of Tuppada. Ex. M-3 is the termination Order to Sharanappa. Ex. M-4 is termination of Manzoor. Ex. M-5 is termination Order of Basavaraj. Ex. M-6 is the termination Order of Mallikarjuna.

11. This witness further stated that none of the workmen has worked more than 240 days in a year. Except during the period mentioned in Ex. M-1 and Muster Rolls the I party have not worked any other time.

12. Nothing much was elicited in the cross-examination except the nature of work entrusted to these workmen.

13. Against this evidence, the workman have been examined themselves to justify their Claim except Tuppada who is the I party in CR 54/91.

14. In summarising the evidence of all these workmen, it is evident that they wanted to show that their work confined from 8.00 a.m. to 5.00 p.m. on all working days and they have worked continuously without any break during the period of their engagement. They have also produced 4 note books marked as workman Exhibits. On this limited material the learned advocate for these workman addressed their arguments.

15. If we assess the evidence of MW 1, Tuppada has not worked continuously for 240 days in a year. As it regards to other workman the evidence of this witness is that they have been terminated by Order Ex. M-3 to M-6.

16. Ex. M-1 series admitted to be the muster roll maintained to mark the attendance of all Casual Labourers engaged for the purpose of work. This register starts from February 1986 onwards and ends to May, 1989. Ex. M-2 said to be the consolidated statement for the year 1986, 1987, 1988 and 1989.

It is shown that Mr. Tuppada worked 247 days in the year 1986, 89 days in 1987 and not worked from 1989. With regard to Manzoor it is shown that he has worked 228 days in the year 1988 only. With regard to Sharanappa 209 days in 1988 and 117 days in 1989. With regard to Basavaraj 170 days in 1986, 50 days in 1987 and 188 days in 1989. The workman Mallikarjuna worked 18 days in 1987, 208 days in the year 1988.

17. Against this documentary evidence these workmen, except Tuppada, have produced Note books which incorporated the number of days worked by these workmen. On a perusal of these note books except Tuppada all other workmen worked from 1-4-85 onwards. These Note books are signed by Sub-Divisional Officer for each month. If we compared these Note books to that of Ex. M-2 the said statement is from the year 1986 onwards. In Ex. M-2 it is shown that the said Tuppada worked 247 days in the year 1986. Though it is shown that the other workmen have not worked 240 days or more than note books gives altogether a different picture. I have perused the documents stated to be termination orders, as spoken by MW 1, but these orders are in the nature of statement of counter statement. That does not show when these workmen have been terminated.

18. Therefore, there is a great deal of confusion involved in these cases. Since the evidence indicating total number of working days connected to these workmen is not correctly tallied with the statement relied by the II party a benefit of presumption is to be given in favour of these workmen, that they have worked more than 240 days in calendar year. Since their termination was without complying the mandatory provisions of Section 25F the termination becomes a nullity as the necessary retrenchment compensation was not paid to these workmen.

19. If we accept these analogy of law it flows that the reinstatement is one of the condition whenever it is proved that the retrenchment compensation is not paid. In these cases the concerned workmen were admittedly Casual Employees engaged for specific work in a specific period. The regular appointment used to be done in accordance with recruitment rules governing the II party. Therefore the question of reinstatement of these workman is not possible. Keeping this in view the following order is made.

### ORDER

20. The termination of all these workmen amounts to retrenchment. Since the II party have not followed the mandatory provisions under Section 25F of the Act, the I party workmen are entitled for retrenchment compensation calculated for the number of years they have worked and also a sum of Rs. 5000 as cost of litigation to each of these workmen for having deprived their right for retrenchment compensation. The reference is answered accordingly.

(Dictated to the LDC, transcribed by him, corrected and signed by me on 24th September, 1999).

JUSTICE R. RAMAKRISHNA, Presiding Officer



नई दिल्ली, 8 अक्टूबर, 1999

का.अ. 3163 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसार में, केन्द्रीय सरकार इण्डियन इंस्टीट्यूट ऑफ हंडलूम टेक्नोलॉजी, गुवाहाटी के प्रबंधन के संवद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गुवाहाटी के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 8-10-99 को प्राप्त हुआ था।

[सं. एल-42012/2/98-आई आर (डी यू)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 8th October, 1999

S.O. 3163.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Guwahati as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Institute of Handloom Technology, Guwahati and their workman, which was received by the Central Government on 8-10-99.

[No. L-42012/2/98-IR(DU)]

KULDIP RAI VERMA, Desk Officer

#### ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI, ASSAM

Reference No. 7(C) of 1998

PRESENT:

Shri K. Sarma, LL.B., Presiding Officer,  
Industrial Tribunal, Guwahati.  
In the matter of an Industrial Dispute between :  
The Management of Indian Institute of Handloom  
Technology, Khanapara, Guwahati-22.

—Vs.—

Their workman of Shri S. Talukdar, Khanapara.

Date of Award : 16-9-99.

#### AWARD

This is an Industrial Dispute referred to by the Desk Officer, Government of India, Ministry of Labour under memo No. L-42012/2/98/IR(DU) dated 20-7-98 to adjudicate the dispute arising between Management of Indian Institute of Handloom Technology, Khanapara and its workman Shri S. Talukdar relating to non regularisation of the service of the said workman. The reference has been made to decide the following issue:

“Whether the action taken by the Indian Institute of Handloom Technology, Khanapara, Guwahati-22 in not regularising the services of Shri S. Talukdar is justified? If not, what relief the workman is entitled to?”

On receipt of the reference, this tribunal has registered this case and issued notice to both the parties calling upon them to file their written statement[Addl. written statement and to exchange their documents in support of their claim, in response to which both the parties have appeared and filed their written objection[Addl. written objection and submitted documents and adduced oral evidence in support of their respective claims.

The claim of the workman, as revealed from materials on record, is that he was appointed as a cook by the Hosteler of Indian Institute of Handloom Technology, Khanapara for their Hostel at Khanapara on monthly wages basis w.e.f. December, 1992 and he continued his service with utmost sincerity till 1995 and thereafter he was engaged for watch and ward duty of the said Institute which he performed sincerely. When a vacancy for a post of chowkidar arose in said Hostel, the management has requested local employment exchange to forward the name of some candidate for selection for said post and accordingly employment exchange has sent a list of some candidates including the name of present workman. The management, on the basis of said list conducted interview on 12-6-1995 and present workman was selected for the said post and appointed him accordingly on daily wages basis vide office memorandum No. IHTG/Estt-1(18)/94/Vol. IV/2298 dated 15-7-95. The management thereafter extended the appointment of the workman in the post of chowkidar till 15-7-95 for a period of 16 days vide order dated 15-9-95 and thereafter his service was terminated on 16-9-95. In this way appointment of the workman was continued till on daily wages basis, but he was suddenly discharged from duty on 26-3-96 verbally. Having dis-satisfied, the workman filed a representation on 3-7-96 before the Regional Labour Commissioner for relief. He has also filed another representation before the management praying for regularisation of service, but it was of no avail. As matter can not be settled amicably by labour authority, the appropriate Government referred it to this tribunal for adjudication.

The management, on the other hand, contested the case by filing written objection contending inter alia that the workman was engaged as chowkidar after interview temporarily. As there is no regular vacancies in the Institute or in the Hostel, the service of the workman cannot be regularised and accordingly he was discharge. Management has further contended that the Hostel was run by the student and engaged the workman in the Hostel as cook, the management has no responsibility for it. The management even denied the certificate ext. '1' filed by the workman issued by the management testifying the fact that the workman was working in the Institute till February, 1995.

The management has adduced evidence of Asstt. Director of Institute as M.W. 1. and the workman has examined himself as workman witness. The workman has exhibited 5 documents such as Ext. 1, a zerox copy of certificates issued by the management testifying the fact that the workman was engaged on daily wages for watch and ward duty in Indian Institute of Handloom Technology Hostel w.e.f. Feb. 1995 till a regular selection is made. Ext. 2 is a Memorandum issued by the management appointing

the workman as chowkidar after selecting him through the process of interview. Ext. 3 is an order issued by the management terminating his service. Ext. 4 is the office order issued by the management appointing him as watchman in the Hostel. The management have also provided some documents in support of their claim.

After recording evidence, I have heard the arguments advanced by the learned advocate for both the parties who have made their submission in the light of their respective contention raised in their written statement.

The issue to be decided in this reference has already been mentioned above. To decide the issue, the fact and circumstances of the case has to be considered on the basis of the existing materials on record. From the materials on record, it is established that workman S. Talukdar was working in the Hostel of Indian Institute of Handloom Technology, Khanapara since 1992 to 1995 on daily wages basis. It has also become an admitted position of fact from the document ext. 'A' filed by the management that they have requested the employment exchange to sent the name of the candidates for selection for the post of chowkidar. The employment exchange accordingly sent the name of the some candidates including that of present workman. From the evidence adduced by the management it is established that the present workman was selected for the post of chowkidar as he was temporarily allowed to work as chowkidar for few months, thereafter his service was terminated on the ground that, there was no regular vacancy. But from the evidence adduced by the management, I find that 3 chowkidars were working in the two hostels i.e. one for Girls and one for the Boys hostel without being selected by the selection Board. In the evidence of the workman, it is established that there are two chowkidars in the Boys Hostel, one chowkidar in the Girl's Hostel, post of one chowkidar is still lying vacant in Girls hostel. Be it what it may, without discussing the evidence of the workman, it is established from the evidence of the management witness that interview was held for the post of chowkidar and present workman's name was recommended by the employment exchange and he was found qualified by the

Board for the post of chowkidar and he was appointed temporarily. But surprising, these 2/3 chowkidar who are working at the Hostel were not selected by the management through the process of selection. Those candidates who were not selected by the interview board have got regular employment, but the present workman whose name was sponsored by the employment exchange and was found qualified by the interview board was not appointed by the management. This action of the management is purely discriminatory and violative to the constitutional provision relating to equal employment opportunity for all. Although, the management has denied the authenticity of certificate Ext. '1' issued by the management, regarding fact of appointment of workman w.e.f. February, 1995 till regularisation, but I do not find any reason to disbelieve the document being written on the pad of the management office. From whatever angle case is judged, I find that by not regularising service of the present workman in that post or in any other post of equal grade is highly discriminatory, unjustified and against the principle of law justice and equity. That there is no regular vacancy for regularisation of the service of workman as stated by the management, can not be accepted because workman had been selected by the selection board and has been appointed by the management temporarily and discharge him and appointed other chowkidars who were not selected by the Board thereby depriving present workman who was working for 3/4 years on the wages basis.

For the forgoing reasons, I hold that the management of Indian Institute of Handloom Technology, Khanapara, Guwahati-22 is not justified in not regularising the service of Sri S. Talukdar. The management is accordingly directed to appoint the workman Shri S. Talukdar in the post of chowkidar or any other post of equal grade and status within a month from the date of this award.

This reference is accordingly answered in favour of the workman. Prepare an award accordingly.

I give this award on this the 16th September, 1999 under my hand and seal.

K. SARMA, Presiding Officer